

CEDARTOWN ZONING CODE

ZONING*

* **State Law References:** Constitutional grant of zoning power, Ga. Const. art. IX, § II, ¶ IV; zoning procedures, O.C.G.A. § 36-66-1 et seq.

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IN GENERAL

Purpose.

The purpose of this chapter shall be to regulate the use of land and buildings by dividing the city into districts; to define certain terms used herein; to impose regulations, prohibitions and restrictions governing the erection, construction and reconstruction of structures and buildings and the use of lands for business, industry, residence, social and other specified purposes; to regulate and limit the height of buildings and open spaces; to conserve the value of buildings and encourage the most appropriate use of land throughout the city in accordance with the comprehensive plan, to regulate and limit the density of population and overcrowding of land; to limit congestion on the public streets; and to facilitate the adequate provisions of water, sewerage, schools, parks and other public requirements. This chapter shall be a tool providing for the gradual elimination of nonconforming uses of land, buildings and structures, establishing the boundaries of districts, and providing the means of enforcing this chapter.

It is the intent of this article to establish minimum procedures governing the exercise of zoning power. The purpose of these minimum procedures is to assure that due process is afforded to the general public when the city regulates the use of property through the exercise of zoning power. Nothing in this article shall be construed to invalidate any zoning or rezoning decision made by the city prior to the enactment of this ordinance.

Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Abandonment: To cease or discontinue a use or activity without intent to resume, but excluding temporary or short-term interruptions to a use or activity during periods of remodeling, maintaining, or otherwise improving or rearranging a facility, or during normal periods of vacation or seasonal closure.

Abutting: Having property or district lines in common, or having property separated by only an alley or easement. Separation by a street right-of-way is not considered abutting.

Access: A way or means of approach to provide physical entrance to a property

Accessory building means a building the use of which is incidental to that of the main building and located on the same lot or parcel of land.

Accessory use means a use incidental, subordinate and appropriate to the principal use or building and located on the same lot or parcel of land with such principal use or building.

Alley means a platted roadway which affords only secondary means of access to abutting property and not intended for general traffic circulation.

Alteration, structural. See "Structural alteration."

Amusement machines means any mechanical, electronic and/or coin-operated game and/or device for the amusement of patrons. This definition shall not be construed to include coin-operated music players, coin-operated mechanical kiddie rides or coin-operated television.

Annexation: The incorporation of a land area into existing corporate limits of a community with a resulting change in the boundaries of a community.

Apartment means a dwelling unit for lease or rent within an apartment building or other similar building for occupancy for an extended period of time.

Apartment building means a residential building containing three or more dwelling units exclusive of a townhouse building or unit.

Apartment hotel means a building designed for or containing both apartments and individual guestrooms or suites which may offer such services as are ordinarily furnished by hotels.

Apartment house. See "Dwelling, multiple."

Applicant A property owner or their authorized representative who has petitioned the city for approval of an application under the terms of this ordinance.

Assisted living facility means residences for the elderly that provide rooms, meals, personal care, and supervision of self-administered medication. They may provide other services incidental to the above. For purposes of this ordinance, assisted living facilities are considered institutionalized residential living and care facilities.

Auction houses means commercial establishments which cater to a wide segment of the population where tangible

personal property items (excluding livestock), cars, boats, trailers, motor homes, trucks, motorcycles, other motorized, self-propelled machines and real estate, are sold on a scheduled, open competitive bid basis to more than two people, provided that all sales, display, and storage are conducted within a completely enclosed building.

Bed and breakfast means a residence in which the frequency and volume of visitors are incidental to the primary use as a private residence and where guestrooms are made available for visitors for fewer than 30 consecutive days. Breakfast is the only meal served and included in the charge of the room. Residence shall be owner occupied.

***Berm:* A mound of earth, or the act of pushing earth into a mound.**

Boardinghouse means a dwelling having one kitchen and used for the purpose of providing meals or lodging or both for compensation to persons other than members of the family occupying each dwelling. A boarding house shall not be considered a group personal home or halfway home. The term "boardinghouse" shall also not include a home as established under the Community Services Act for the Mentally Retarded (under applicable state law), and other homes of similar intention and purpose. Additionally the term shall not include facilities housing persons convicted of crimes but not housed in penal institutions. It shall further not include uses such as drug or alcohol treatment or rehabilitation facilities.

Buffer means that portion of a lot or parcel of land set aside for open space and/or visual screening purposes, pursuant to applicable provisions of this chapter, to separate different use districts or to separate uses on one property from uses on another property of the same use district or a different use district. The buffer area may be a natural, landscaped, constructed or other type of buffer.

Building means any permanent structure attached to the ground designed or built for the support, shelter or protection of persons, animals, chattels or property of any kind. The definition of "building" shall include "structure".

Building accessory, means a building subordinate or supplemental to the main building on a lot and used for purposes customarily incidental to that of a main or principal building and located on the same lot therewith.

Building, alteration of, means and includes any change in the supporting members of a building, such as bearing walls, beams, columns, and girders, any addition to a building, or any change of a building from one location to another.

Building, height of, means the vertical distance measured from the average elevation of the proposed finished grade at the front of the building to the highest point of the roof for flat roofs, or to the deck line of mansard roofs, and the mean height between the eaves and the ridge for gable, hip or gambrel roofs.

Building line means a line beyond which the foundation wall or any enclosed or covered porch, vestibule, or other enclosed or covered portion of a building shall not project.

Building official means an employee of the city designated to oversee building standards and responsible for enforcing building related codes.

***Building setback line* A line establishing the minimum allowable distance between the main or front wall of the building and the street right-of-way line when measured perpendicularly thereto. Covered porches, weather [whether] enclosed or not, shall be considered as a part of the building and shall not project into the required yard.**

***Carport* means a roofed area open on one, two, or three sides and attached to the main building, for the storage of one or more motor vehicles.**

***Cemetery* means an area of land set apart for the sole purpose of the burial of bodies of dead persons or animals**

and for the erection of customary markers, monuments, and/or mausoleums.

Certificate of occupancy: A legal statement or document issued by the building official indicating that the building and use or reuse of a particular building or land is in conformity with all applicable codes and regulations, and that such building or land may be occupied for the purpose stated therein.

Change of occupancy means a discontinuance of an existing use, abandonment of a use, and/or the substitution of a significant variation in the type or class of use of the property. A change of occupancy does not include a mere change of tenancy, proprietorship, or similar change unless this change is accompanied with a significant variation in the use of the property.

Church or place of religious worship: An institution that people regularly attend to participate in or hold religious services, meetings, and other activities. The term "church" shall not carry a secular connotation and shall include buildings in which the religious services of any denomination are held.

Clinic means an establishment where patients who are not lodged overnight, except for observation or emergency treatment, are admitted for examination and treatment by one person or a group of persons practicing any form of healing or health-related services to individuals, which is lawful in this state.

Club means a building or facilities owned or operated by a corporation, association, person or persons, for a social, educational or recreational purpose, but not primarily for profit or to render a service which is customarily carried on as a business.

Commission means the City Commission

Conditional use means a land use that is deemed to be detrimental in the zoning district in which it is located but that could be compatible if certain conditions are imposed to mitigate possible impacts. Conditional uses require the approval of the city commission. After review of the application and a hearing thereon, a conditional use may be allowed following a finding that the proposed use or uses:

- (1) Will be consistent with or not significantly adverse to the comprehensive plan for the physical development of the district, including any master plan or portion thereof adopted by the commission;
- (2) Will be in harmony with the general character of the neighborhood, considering population density, design, scale and bulk of any proposed new structures, intensity and character of activity, traffic and parking conditions;
- (3) Will not be significantly detrimental to the use, peaceful enjoyment, economic value, or development of surrounding properties or the general neighborhood and will cause no seriously objectionable noise, vibrations, fumes, odors, dust, glare, or physical activity;
- (4) Will not adversely affect the health, safety, security, morals, or general welfare of residents, visitors, or workers in the area; and
- (5) Will be served by adequate public services and facilities including schools, police and fire protection, water, sanitary sewers, public roads, storm drainage, and other public improvements, as may be required by this chapter or other applicable regulations.

All special exception uses shall be as defined and/or regulated in this chapter.

Conditional zoning: The granting or adoption of zoning for property subject to compliance with restrictions as to use, size, density or actions stipulated by the governing body to negate adverse impacts that are anticipated without imposition of such conditions.

Condominium means individual ownership of units in a multifamily structure, together with the joint ownership of common areas of the building and grounds.

Convalescent home. See "Nursing home."

Convenience store means any retail establishment offering for sale prepackaged food products, household items and other associated goods and having a gross floor area of less than 7,500 square feet.

Corner lot. See "Lot, corner."

Crematory or crematorium means a location containing properly installed and certified apparatus intended for use in the act of cremation.

Cul-de-sac: A local street, one end of which is closed and consists of a circular turnaround.

Day care center, commercial, means any place operated by a person, society, agency, corporation, institution, or any other group wherein are received for pay five or more children under 16 years of age for group care, without transfer of custody. Legal operation for this commercial childcare center shall be for more than four hours and less than 24 hours per day.

Day care home, residential, means any place operated by any person who receives for pay no more than five children for group care, in accordance with all applicable child care regulations of the state, and without transfer of custody. Legal operation of this childcare residence shall be for more than four hours and less than 18 hours per day.

Density means the number of dwelling units developed on an acre of land.

Depth of lot. See "Lot, depth of."

Development standards means site design regulations such as lot area, lot coverage, height limits, frontage, and yard requirements (setback distances).

District or zoning district means a section of the city designated in this chapter and delineated on the official zoning district maps for the city, in which requirements for the use of land, building and development standards are presented with all such requirements being uniform in each district.

Double frontage lot. See "Lot, double frontage."

Drive-in restaurant means food or refreshment place where space is provided for automobiles to park for the purpose of serving the occupants with food and refreshments. This includes barbecue stands and pits or other roadside facilities serving food or refreshments.

Duplex. See "Dwelling, two-family."

Dwelling means a building or portion thereof, designed or used exclusively for residential occupancy, but not including hotels, boardinghouses or motels.

Dwelling, loft-style, means a dwelling unit, occupied by no more than four persons, with the following

characteristics:

- (1) The common party wall must be four-hour fire-rated masonry construction and extend from the foundation wall through the roof line for a minimum of three feet;
- (2) There shall be no more than four loft dwelling units per building, and they shall be located only on the second floor level;
- (3) Each loft dwelling shall have a private entry door, and either:
 - a. A private access stairway to the ground floor; or
 - b. A common stairway in conjunction with a common upstairs foyer;
- (4) Central heating and cooling units with individual thermostats per loft dwelling;
- (5) A minimum of 400 square feet of living space for the first person and an additional 100 square feet of living space per each additional person, but not to exceed a maximum of four residents; nor shall the loft dwelling unit exceed 1,200 square feet in total living space;
- (6) The loft dwelling shall be equipped with a fire suppression sprinkler system complying with the National Fire Protection Association (NFPA) 13R standard;
- (7) No doorway or window interconnection between loft dwelling; and
- (8) Each loft shall comply with all existing codes used in the city.

Dwelling, multiple, means a building designed for the occupancy of three or more separate nuclear family units, living independently of each other, with separate housekeeping facilities for each family unit. These dwelling types shall include apartment houses, apartments and flats, but does not include boarding homes, hotels or motels.

Dwelling, single-family, means a building designed to be occupied exclusively by one related family as defined herein. For purposes of this chapter, a "related family" shall be parents, children, grandchildren or other relatives that create a family dwelling unit related by the third degree, or closer, of consanguinity or affinity, as described by state law.

Dwelling, two-family (duplex), means a building designed for or occupied exclusively by two families living independently of each other, with separate housing facilities for each family unit separated from each other by an unpierced wall extending from ground to roof.

Dwelling unit means a building, or portion thereof, providing complete living facilities for one family.

Easement means the right of a person, entity, government agency, or public utility company to use public or private land by another for a specific purpose.

Efficiency apartment means a dwelling unit consisting principally of one room and alcoves, equipped with kitchenette and bath.

Facade: The exterior wall of a building exposed to public view or that wall viewed by persons not within the building

Family (related family) means an individual, or two or more persons residing in a single dwelling unit where all

members are related by blood, marriage, or adoption up to the third degree of consanguinity or within the second degree of affinity, or by foster care. For the purposes of this definition, "consanguinity" means only the following persons are related within the third degree of consanguinity: husbands and wives, parents and children, grandparents and grandchildren, great-grandparents and great-grandchildren, brothers and sisters, aunts and uncles, and nephews and nieces. Two individuals are related to each other by affinity if they are married to each other as defined by O.C.G.A. § 19-3-3.1 or the spouse of one of the individuals is related by consanguinity to the other individual. Husband and wife are related to each other in the first degree of affinity. For other relationships of affinity, the degree of relationship is the same as the degree of the underlying relationship by consanguinity.

Filling station or gas station means any building, structure or land used for the dispensing, sale or offering for sale at retail any automobile fuels, oils, accessories or services. No major repairs, such as auto body repair, welding, tire recapping or painting shall be permitted.

Flea market means a market at which secondhand articles are displayed and sold.

Flood insurance rate map: The official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

Floodplain: That area within the intermediate regional flood contour elevations subject to periodic flooding as designated by the city engineer based upon the U.S. Corps of Engineer's floodplain reports and other federal, state, county or local hydraulic studies.

Floodway: The channel of a natural stream or river and portions of the floodplain adjoining the channel, which are reasonably required to carry and discharge the floodwater or flood flow of any natural stream or river.

Floor area means, except as may be otherwise indicated in relation to particular districts and uses, the sum of the gross horizontal areas of the several floors, including basement areas, of a building. These areas are to be measured from the exterior faces of the exterior walls or from the centerline of walls separating two buildings, and exclude public corridors, common restrooms, attic areas with a headroom of less than seven feet, unenclosed stairs or fire escapes, elevator structures, cooling towers, areas devoted to air conditioning, ventilating, heating, or other building machinery and equipment, parking structures, and basement space where the ceiling is not more than an average of 48 inches above the general finished and graded level of the adjacent portion of the lot.

Front yard. See "Yard, front."

Frontage means all the property abutting one side of a street between two intersecting streets, measured along the street line.

Garage apartment means an accessory building, not a part of or attached to the main building, where a portion thereof contains living facilities for not more than one family and an enclosed space for one or more automobiles.

Garage, mechanical, means any building or land where automotive vehicles are repaired, rebuilt, reconstructed or painted, where tires are recapped and welding work is performed.

Garage, private, means a detached accessory building or a portion of a principal building for the storage of automobiles of the occupants of the premises. The term "private garage" shall include "carport."

Garage, storage, means any building or portion thereof, other than a private or mechanical garage, used exclusively for the parking or storage of motor vehicles. Services other than storage shall be limited to refueling, lubrication, washing and polishing.

Gas station. See "Filling station."

Grade means the average of the finished ground level at the center of all walls of a building. In case walls are parallel to and within five feet of a sidewalk, the ground level shall be measured at the sidewalk.

Group personal care home means a residential care facility wherein:

- (1) The operator is not legally related to the individuals supervised and is licensed by the state to provide community alternatives in a residential environment to institutional care for individuals in need of such care;
- (2) More than four persons reside, including operators, supervisors, and individuals under care; and
- (3) Such individuals are provided with room, board, personal and physical care and supervision in a family environment.

The term "group personal care home" shall include, without limitation by reason of enumeration, a home as established under the Community Services Act for the Mentally Retarded (under applicable state law), and other homes of similar intention and purpose, but shall not include facilities housing persons convicted of crimes but not housed in penal institutions. It shall further not include uses such as drug or alcohol treatment or rehabilitation facilities. The number of persons occupying a group home shall not exceed ten in number at any given time, including a minimum of one supervisory personnel.

Guesthouse means a detached accessory dwelling unit located on the same lot in conjunction with a single-family dwelling unit. The square foot area of a guesthouse may not exceed 50 percent of the heated and finished floor area of the principal building on the lot or 1,100 square feet in floor area, whichever is less, and may be used only by family members, guests or family employed domestic household servants.

Half story. See "Story, half."

Halfway home means a group home facility which is licensed or supervised by any federal, state, or county agency or a licensed private entity, providing treatment relating to alcohol and/or drug abuse problems, offender rehabilitation or for similar purposes.

Height of building. See "Building, height of."

Historic area: A district or zone designated by local authority, state or federal government within which the buildings, structures, appurtenances and places are of basic and vital importance because of their association with history, or because of their unique architectural style and scale, including color, proportion, form and architectural detail, or because of their being a part of or related to a square, park, or area, the design or general arrangement of which should be preserved and/or developed according to a fixed plan based on cultural, historical or architectural motives or purpose.

Historic preservation: The protection, rehabilitation, and restorations of districts, sites, buildings, structures and artifacts significant in American history, architecture, archaeology, or culture.

Home occupation means any occupation or profession carried on by the inhabitants which is clearly incidental and secondary to the use for dwelling purposes, which does not change the character thereof, and which is conducted entirely within the main or accessory building, provided that no trading of merchandise is carried on. In connection with this use, there is no display of merchandise or sign other than one nonilluminated nameplate not more than two square feet in area attached to the main or accessory building and no mechanical equipment is used or activity is conducted which creates any dust, noise, odor or electrical disturbance beyond the confines of the lot on which said occupation is conducted. The term "home occupation" shall not be deemed to include a bed and breakfast inn. Not more than ten percent

of the total floor space of any dwelling is used for such home occupation. Home occupation shall include the use of premises by a physician, dentist, lawyer, clergyman or other professional for consultation or emergency treatment but not for the general practice of the profession.

Hotel or motel means a building or group of buildings under one ownership containing sleeping rooms occupied or intended or designed to be occupied as a more or less temporary abiding place of persons who are lodged with or without meals for compensation, but not including an auto or trailer court or camp, sanitarium, hospital, asylum, orphanage, or building where persons are housed under restraint. The term "hotel" or "motel" includes tourist homes and bed and breakfast dwellings.

Interior lot. See "Lot, interior."

Itinerant vendors means and includes any person, whether a resident of the city or not, who has no permanent place of business within the city and who engages in a transient business in one temporary fixed place of business or sells goods from a vehicle, truck, van, trailer or other type of conveyance.

Junkyard means an open area where waste, used, or secondhand materials are brought and sold or exchanged, stored, baled, packed, disassembled, or handled, including, but not limited to, scrap iron and other metals, paper, rags, rubber tires, and bottles. A junkyard includes automobile wrecking yards and any area for storage, keeping, or abandonment of junk. Such uses shall be considered junkyards whether or not all or part of such operations are conducted inside a building or in conjunction with, in addition to or accessory to other uses of the premises.

Kennel means any lot or premises on which three or more dogs or other domestic animals are kept, either permanently or temporarily, for purpose of sale, care, breeding or training for which any fee is charged.

Kindergarten means a school for pre-elementary school children ranging in age from three years through six years which operates for less than four hours per day.

Laundry, self-service, means a business rendering a retail service by renting to the individual customer equipment for the washing and drying of laundry.

Livestock means Cattle, pigs, sheep, goats, llamas, emus, ostriches, donkeys, mules, chickens, ducks, geese, and other fowl, minks, foxes and other fur or hide-bearing animals, customarily bred or raised in captivity, whether kept for pleasure, utility, or sale.

Loading space means a space on the lot or parcel of land accessible to an alley or street not less than 12 feet in width, four feet in depth and 14 feet in height.

Lot means a parcel, plot or tract of land of varying sizes which is designated as a single unit of property and which is intended to be occupied by one building, or group of buildings, and its accessory buildings and uses as required by this chapter.

Lot, corner, means a lot abutting two or more streets at their intersection.

Lot, depth of, means the average distance between front and rear lot lines.

Lot, double frontage, means a lot having a frontage on two nonintersecting streets, as distinguished from a corner lot.

Lot, interior, means a lot other than a corner lot.

Lot, width of, means the average horizontal distance between the side lines of a lot measured at right angles to the depth.

Lot lines means the lines bounding a lot.

Lot of record: A lot which is part of a subdivision, a plat of which has been recorded in the deed records of the clerk of superior court of Polk County; or a parcel of land, the deed and plat of which has been recorded in the same office as of the effective date of this ordinance.

Manufactured housing means a factory-built single-family structure that is manufactured under the authority of 42 USC 5401 (the National Manufactured Home Construction and Safety Standards Act) and is transportable in one or more sections, is built on a permanent chassis, and is designed to be used as a place of human habitation with or without permanent foundation when connected to the required utilities. It is not constructed with a permanent hitch or other towing device allowing transportation of the unit other than for the purpose of delivery to a permanent site, and does not have wheels or axles permanently attached to its body or frame. Manufactured housing must bear the insignia issued by the U.S. Department of Housing and Urban Development (HUD).

Mechanical garage. See "Garage, mechanical."

Miniwarehouse means a building that contains varying sizes of individual, compartmentalized and control-access stalls or lockers for storing the excess personal property of an individual or family. No business activities other than the rental or storage units shall be conducted on the premises.

Mobile home means a transportable factory-built home designed to be used as a year round residential dwelling and built prior to the enactment of the National Manufactured Housing Construction and Safety Standards Act of 1974, which became effective June 15, 1976 or that has not been inspected and approved as meeting the requirements of this act. Mobile homes are not permitted uses in any zoning district, except within existing or later approved manufactured home parks and/or subdivisions.

Mobile office means a factory-fabricated structure designed to be transported on its own wheels, detachable wheels, flatbed or trailer and used or intended to be used or occupied for the transaction of business or the rendering of a professional service.

Motel. See "Hotel."

Multiple dwelling. See "Dwelling, multiple."

Nonconforming use means any building, structure or uses of land or building lawfully existing at the effective date of the ordinance from which this chapter is derived, which does not conform with the provisions of this chapter or amendments thereto.

Nursing home or convalescent home means a home for the aged, chronically ill or incurable persons in which three or more persons not of the immediate family are received, kept or provided with food and shelter or care for compensation, but does not include hospitals, clinics or similar institutions devoted primarily to the diagnosis and treatment of the sick or injured.

Off-street loading and unloading space means a space with dimensions no less than 12 feet in width, 40 feet in length and 14 feet in height, exclusive of access aisles, maneuvering space or alley right-of-way.

Off-street parking space means a minimum net area of 200 square feet of appropriate dimensions, and not less than nine feet in width, for parking an automobile, exclusive of access drives or aisles thereto or any street or alley right-of-way.

Open air business uses means and includes the following:

- (1) Retail sale of trees, shrubbery, plants, flowers, seed, topsoil, humus, fertilizer, trellises, lawn furniture, playground equipment and other home garden supplies and equipment;
- (2) Retail sale of fruit and vegetables;
- (3) Miniature golf, golf driving range, children's amusement park, or similar recreation uses;
- (4) Bicycle, trailer, motor vehicle, boats or home equipment sales, service or rental services; and
- (5) Outdoor display and sale of garages, swimming pools, and similar use.

Open space means a yard area which is not used for or occupied by a driveway, off-street parking, loading space, drying yard or refuse storage space.

Parking space means a surfaced area, enclosed or unenclosed, sufficient in size to store one automobile, together with a driveway or other paved area connecting the parking space with a street or alley and permitting ingress and egress of an automobile.

Peddler. See "Street vendor."

Permit means a certificate of zoning compliance, special zoning permit or any other permit required by this chapter and issued by the building inspector or planning commission of the city.

Permitted use means a use which is allowed in the district in which the land is situated. Where a proposed use is a permitted use in accordance with other regulations herein, a certificate of zoning compliance will be issued by the city without a public hearing if such use otherwise complies with all applicable requirements of this chapter. Where a permitted use could impact unfavorably on adjoining property, the planning commission, after a public hearing thereon, may stipulate, in appropriate situations, buffer areas, screening or other modifications.

Personal care home means a dwelling unit in which aged or infirmed persons are boarded, and receive personal care on a 24-hour basis. All such homes shall be licensed by the appropriate state agency. Also see "Group personal care home."

Planned unit development:

(1) Land under unified control to be planned and developed as a whole in a single development operation or as a definitely coordinated and compatible development operations or phases. A planned development includes principal and accessory structures and uses substantially related to the character and purposes of the planned development. A planned development is built according to general and detailed plans that include not only streets, utilities, lots and building location, and the like, but also site plans for all buildings as are intended to be located, constructed, used, and related to each other, and plans for other uses and improvements on the land as related to the buildings. Said development includes a program for the provisions, operations, and maintenance of such areas, facilities, and improvements as will be for common use by some or all of the occupants of the development, but which will not be provided, operated, or maintained at general public expense.

(2) A form of development usually characterized by a unified site design for a number of housing units, clustered buildings, common open space, density increase, buffer areas and a mix of building types and land uses.

Plat means a map, plan, or layout of a county, city, town, section, lot or a subdivision or other property indicating the location and boundaries of properties.

Principal building: A building in which the primary use of the lot on which the building is located is conducted.

Principal use means the primary purpose or function that land serves or is intended to serve.

Private garage. See "Garage, private."

Rear yard. See "Yard, rear."

Restaurant means an establishment designed and operated for the express purpose of providing food and beverage service within the confines of a structure and generally excluding any encouragement, orientation, or accommodation of services or products to the patrons' automobiles, on or within the premises.

Restaurant, fast food, means a restaurant where most customers order and are served their food at a counter or in a motor vehicle in packages prepared to leave the premises, or able to be taken to a table or counter to be consumed.

Retirement center, A building or group of buildings containing dwellings where the occupancy of the dwellings is restricted to persons 60 years of age or older or couples where either the husband or wife is 60 years of age or older. This does not include a development that contains convalescent or nursing facilities.

Right-of-way means public or private access over or across particularly described property for a specific purpose or purposes.

Right-of-way line means the dividing line between a lot, tract or parcel of land and a contiguous street, railroad, or other public utility right-of-way.

Roominghouse see "boarding house."

Satellite dish antenna means a device which is used to intercept satellite television signals and consists of two main components: the antenna itself, often called a dish, and low noise amplifier (LNA). A satellite dish antenna is not to exceed 36 inches in diameter in residential zones.

School means a facility where persons regularly assemble for the purpose of instruction or education including public and private schools used for pre-kindergarten, primary, secondary, or post-secondary education. In commercial districts, the term school may also include professional schools that provide a curriculum devoted primarily to business or professions including but not limited to barbers and beauticians, dentists and real estate agents and brokers. Within the residential districts and the central business district, school shall not be interpreted to include facilities that offer drug rehabilitation services or that has any affiliation or relation with court mandated programs such as those for persons guilty of criminal offenses.

Screen: A method of shielding, obscuring or buffering one use or building from another use or building by fence, walls, berms, densely planted vegetation or other means; a visual and acoustical barrier which is of such nature and density that provides year round maximum opacity from the ground to a height of at least six feet or that screens structures and activities from view from the normal level of a first-story window on an abutting lot.

Self-service laundry. See "Laundry, self-service."

Service station. See "Filling station."

Setback distance means the distance between the principal structure on a lot and a lot line (either front, side or rear setback distance).

Shopping center means a group of commercial establishments, exceeding in the aggregate of 7,500 square feet of gross leaseable area, planned and developed as a unit, with common off-street parking provided on the property.

Side yard. See "Yard, side."

Sign means any words, lettering, parts of lettering, figures, numerals, phrases, sentences, emblems, or devices by which anything, such as the designation of an individual, a firm, an association, a profession, a business, a commodity, or a product, is made known and which are visible from any public way and used as an outdoor display.

Single-family dwelling. See "Dwelling, single-family."

Special exception (SE) use means those uses which without the proper scrutiny and conditions may be appropriately located within certain specified zoning districts, subject to the standards of **section 23-50**. It shall be qualified as:

- (1) Any other facility for the disposal of the dead, provided all requirements for cemetery have been satisfied.
- (2) Cemeteries for human or animal interment.
- (3) A church.
- (4) A church with an accessory school and/or cemetery.
- (5) Mausoleums, when used in conjunction with a cemetery, provided that all requirements for the cemetery have been satisfied.
- (6) Private community center. A place, structure, area, or other private or nonpublicly owned facility used for and providing religious, fraternal, social, and/or recreational programs generally open to the public and designed to accommodate and serve significant segments of the community.
- (7) Private schools of general and special education.

Storage garage. See "Garage, storage."

Story means that portion of a building included between the surface of any floor and the surface of the floor next above it; or if there is no floor above it, then the space between the floor and the ceiling next above it.

Story, half, means a story under a gabled, hopped or gambrel roof, the wall plates of which on at least two opposite exterior walls are not more than three feet above the finished floor of such story.

Street means a public or private thoroughfare which affords principal means of access to abutting property.

Street vendor/peddler means and includes any person, whether a resident of the city or not, traveling by foot, wagon, automotive vehicle or any other type of conveyance, from place to place, from house to house, or from street to

street carrying, conveying or transporting goods, merchandise, meats, fish, vegetables, fruits, garden truck, farm products or provisions, offering and exposing the same for sale, or making sales and delivering articles to purchasers or any person who, without traveling from place to place, shall sell or offer the same for sale.

Structural alteration means any change in the supporting members of a building, such as bearing walls, bearing partitions, columns, beams or girders, any addition to any building or any complete rebuilding of the roof or the exterior walls.

Structure means anything constructed or erected, the use of which requires a location on the ground or attached to something having a location on the ground, including, but not limited to, advertising signs, billboards, backstops for tennis courts, fences and pergolas. The term "structure" shall include "building."

Subdivision means a division of land into two or more lots, plats or sites.

Taxi means any motor vehicle other than a limousine offered to the public by a public taxicab business for the purpose of carrying or transporting passengers for a charge or a fee.

Taxicab business means a service that offers transportation in passenger automobiles and/or vans to persons; including those who are disabled, in return for remuneration. The business may include facilities for servicing, repairing, and fueling the taxicabs or vans.

Territorial boundary means the area lying within the corporate limits of the city.

Townhouse means an attached house in a row or group, each house separated from adjoining houses in the same row or group by architectural style, change of facade, offsets, and by firewalls or fire separations.

Travel trailer means a vehicular portable structure designed as a temporary dwelling for travel, recreational and vacation uses, which is not more than eight feet in body width and is of any weight, provided its body length does not exceed 35 feet.

Travel trailer park means any lot on which are temporarily parked two or more travel trailers for a period of less than 30 days.

Two-family dwelling. See "Dwelling, two-family."

Used car lot means a lot or group of contiguous lots used for the storage, display and sale of used automobiles and where no repair work is done except the necessary reconditioning of the cars to be displayed and sold on the premises.

Used for means and includes "designed for."

Variance means a relaxation or modification of the strict terms of the this chapter where such will not be contrary to the public interest and where conditions peculiar to the property (not the result of the action of the applicant) make a literal enforcement of this chapter result in unnecessary and/or undue hardship. As used in this chapter, a variance is authorized only for height, area, and size of structure, for size of yards and open spaces and for any rule or regulation herein involving distance, area, height or other dimension, including, but not limited to, setback distances of buildings, distances of curb cuts from corners, etc. Establishment or expansion of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of nonconformities in the zoning district or uses in an adjoining zoning district.

Village Concept means the idea that adjacent structures, parking lots, landscaping, buffer and common areas shall share common themes and similar construction and design so to create a harmonious atmosphere within a designated area.

Width of lot. See "Lot, width of."

Yard means an open space on the same lot with a building, unoccupied and unobstructed from the ground upward, except by trees or shrubbery or as may otherwise be provided.

Yard, front, means a yard across the full width of a lot, extending from the front line of the building to the front of the lot, excluding steps.

Yard, rear, means a yard extending across the rear of a lot measured between lot lines of being the minimum horizontal distance between the rear lot line and the rear of the main building or any projections other than steps, unenclosed balconies or unenclosed porches. On corner lots, the rear yard shall be considered as parallel to the street upon which the lot has its least dimension. On both corner and interior lots the rear yard shall in all cases be at the opposite end of the lot from the front yard.

Yard, side, means a yard extending between a building and the side line of the lot, and extending from the front line to the rear lot line.

***Zoning:* A police power measure in which the community is divided into districts or zones within which permitted uses, and in some cases conditional uses, are established as well as regulations governing lot size, bulk, height and other development requirements.**

Zoning administrator means an employee of the city designated to oversee zoning issues such as zoning interpretation, changes, compliance, and land use planning.

Zoning decision means the final action by the city commission which results with:

- (1) The adoption of a zoning ordinance;
- (2) The adoption of an amendment to a zoning ordinance which changes the text of the zoning ordinance; or
- (3) The adoption of an amendment to a zoning ordinance which rezones property from one zoning classification to another.

Zoning ordinance means an ordinance or resolution by the city commission establishing procedures, zones or districts within its respective territorial boundaries which regulate the uses and development standards of property within such zones or districts. The term also includes the zoning map adopted in conjunction with a zoning ordinance, which shows the zones, districts and zoning classifications of property therein.

Applicability.

This chapter shall apply to all subject matter that is regulated both by this chapter and other ordinances, including, but not limited to, ordinances for the development and maintenance of land, and such other ordinances are hereby amended to reflect this. The city commission may attach statements to such other ordinances to the effect that compliance with this chapter is required by such other ordinances.

Conflict with other law.

Whenever the provisions and requirements of this chapter or of any rule, regulation, or order pursuant hereto are more restrictive than those under any other statute, law, rule, regulation, ordinance, or order of the city, the state, or the

United States, the provisions and requirements of this chapter, and the rules, regulations and orders pursuant hereto shall govern to the extent permissible by law. Whenever the provisions of any other statute, law, rule, regulation, ordinance, or order of the city, the state, or the United States are more restrictive than this chapter, or any rule, regulation, or order pursuant hereto, then the provisions of such other statute, law, rule, regulation, ordinance, or order shall govern.

All buildings and/or structures shall meet the requirements of all adopted local, state, and federal codes in effect including, but not limited to, building codes, plumbing codes, electrical code, fire prevention codes, and housing codes. Where such codes exceed the minimum requirements of this ordinance, the stricter provisions shall apply.

City not guarantor of acts or omissions of other entities.

No act or omission of the city and city commission, or planning commission shall be an assurance or guarantee that the United States or any department or agency thereof, the state or any department or agency thereof, or any other county or any municipality has or will take any action or has or will make any omission. No act or omission of the city and city commission, or planning commission shall be construed as the rendering of advice or an opinion as to the status of legal requirements, policies, acts, or omissions of any of the other aforesaid entities.

Criminal acts and penalties; continuing offenses; jurisdiction over offenses.

- (a) Notwithstanding provisions elsewhere in this chapter, the following are declared to be crimes:
 - (1) It shall be unlawful to engage in any activities in violation of applicable requirements, rules, regulations, permit conditions, and orders established under this chapter.
 - (2) It shall be a criminal violation of this chapter to furnish false or materially incomplete or misleading information to the planning commission, or any city official, building inspector or similar employee on any application, investigation, or proceeding regarding this chapter.
- (b) Each day that a violation continues shall be deemed a separate offense. At the discretion of the presiding judge, a violator of this chapter may be given a reasonable length of time to rectify or correct the violation.
- (c) Jurisdiction over offenses under this chapter shall be in the municipal court of the city. Any person violating the terms of this chapter or any permit condition, rule or regulation promulgated pursuant thereto may be punished by fine of not more than \$1,000.00, by imprisonment in the county jail for a term not to exceed 12 months, by receiving probation, or by any other punishment authorized by this Code.

Civil action by private citizen.

Nothing in this chapter shall prevent an adjacent or neighboring property owner who would be damaged by a violation or any other person who would have standing to bring a civil action for damages, injunctive relief, abatement of a nuisance, a writ of mandamus, or other appropriate relief.

Amendment.

The city commission, in taking action resulting in adoption of an amendment to the text of this chapter, shall provide for a public hearing on the proposed action. At least 15 but not more than 45 days prior to the date of the hearing, the city commission shall cause to be published within a newspaper of general circulation within the territorial boundaries

of the city a notice of the hearing stating the time, place, and purpose of the hearing.

ARTICLE __.

ADMINISTRATION

Administration and enforcement of provisions.

The ordinance and code enforcement officer and his duly authorized agent or his designee shall administer and enforce the provisions of this chapter.

Basis for provisions and compliance with the comprehensive plan.

The regulations and requirements set forth in this chapter are promulgated in accordance with a comprehensive plan, with reasonable consideration, among other things, to the prevailing land uses, growth characteristics and the character of the respective districts, neighborhoods, or areas and their peculiar use of land throughout the city.

Interpretation of provisions; property inadvertently omitted from zoning districts.

(a) In interpreting and applying the provisions of this chapter, they shall be held to be the minimum requirements for the promotion of the public, health, safety, morals and general welfare of the community.

(b) It is not intended by this chapter to interfere with, abrogate or annul any easements, covenants or other agreements between parties; provided, however, that where this chapter imposes a greater restriction upon the use of buildings or premises or upon the height of buildings, or requires larger open spaces than are imposed or required by other ordinances, rules, regulations or by easements, covenants, or agreements, the provisions of this chapter shall control.

(c) If, because of error or omission in this chapter or the zoning map, any property within the city is not shown as being included in a zoning district, the classification of such property shall be designated as the most restrictive and highest use district, unless changed by an amendment to this chapter.

(d) Annexation of property shall follow the requirements of The Zoning Procedures Law (O.C.G.A. § 36-66-1 et seq.). A notice of the annexation of property shall be provided to the county, as required by O.C.G.A. § 36-36-6, and the required hearing held prior to the annexation. A notice of said hearing will be published in the city's newspaper of general circulation and all other zoning policies and procedures regarding hearings, notices and amendments, as outlined in sections 23-45 and 23-46, shall be followed.

(e) Where the corporate limits of the city may change by annexation or some other means, the following provisions shall apply:

(1) Land to be annexed shall be zoned to best fit with the classification and character of surrounding properties at the discretion of the City commission in accordance with requirements of zoning amendments in this code.

(2) In any case, where changes are made to the corporate limits of the City of Cedartown and where additions in the total land area require adjustments in the zoning district boundaries, said adjustment shall be made on the official zoning map of the City of Cedartown and shall follow the prescribed procedures for map amendment as called for in this ordinance.

Outline of steps required for amendment to this chapter.

- (a) Amendments to the text of this chapter or to the official zoning map may be initiated at the request of a private petitioner or the city commission. Requests for a conditional use or variance to the provisions regulating districts may be similarly initiated by a private petitioner or at the suggestion or request of the planning commission in considering an amendment.
- (b) In general, all private petitions for text amendments, changes in zoning districts (rezonings), and conditional uses shall comply with the following steps in order to secure approval or denial:
 - (1) Any petition for a zoning change must be filed in the form of a written application with the city clerk or his designee and all fees paid at that time.
 - (2) The city clerk or his or her designee will inform the applicant of the public hearing dates at which the petition will be considered.
 - (3) The city will advertise the public hearing and provide notification to affected parties by written notice and by the posting of a notice on the subject property.
 - (4) Consideration of the proposed zoning change shall be carried out as prescribed in **section 23-45** and as required by state law.
 - (5) Consideration of a request for a conditional use shall be reviewed according to the criteria enumerated in the definition of a conditional use **in section 23-2**.
 - (6) Variance requests will be reviewed by the planning commission. Variances may be granted only insofar as the proposed action meets the requirements enumerated in **section 23-51** and the criteria enumerated in the definition of a "variance" in **section 23-2**. In no case may a variance be granted for a use of land or building (a "use variance") that is prohibited within the zoning district. The planning commission shall keep a record of all variances granted or denied.

Zoning policies and procedures.

The following policies and procedures are herein established to provide guidelines for certain types of zoning activities:

- (1) The adoption of a new city zoning ordinance;
- (2) The adoption of an amendment to this chapter which changes the text of this chapter (text amendment);
- (3) The adoption of an amendment to this chapter (map amendment) which rezones property from one zoning classification to another;
- (4) The procedural requirements for zoning amendments sponsored by the city;
- (5) The procedural requirements for zoning amendments sponsored by a citizen or property owner;
- (6) Annexation of property by the city;
- (7) Annexation of property by a private petitioner which requests zoning of the property for a certain specific

zoning classification, and the request is contained in the annexation petition. If there is no request for zoning classification of such property, then the property shall be annexed and designated as the most restrictive and highest use district, until changed by an amendment to this chapter.

Policies and procedures for city-initiated zoning activities.

(a) *Amendment to this chapter.* In the case of developing an initial zoning plan (map and text), or updating or amending an existing zoning plan, the city planning commission and the city commission will, where appropriate, utilize any new or existing land use studies, land use plans or other relevant documents as a resource for ordinance development or ordinance amendment. The city commission and the planning commission will each hold at least one public hearing on any new zoning ordinance development or any proposed amendment to the current zoning ordinance.

(b) *Public hearing.* Upon the completion of a preliminary zoning document by the planning commission and after this draft document has been presented to and reviewed by the city commission, public hearings will be scheduled by both the planning commission and the city commission, respectively. The official public hearing will be held by the city commission, and public notice will be given no less than 15 days or more than 45 days prior to the official hearing date.

(c) *Required notices.* Notice of public hearings will be published within a newspaper of general circulation within the territorial boundaries of the city. The public notice will state the time, place, and purposes of the hearing.

Review of amendments.

(a) *Review by planning commission and city commission.* All amendments to any existing zoning plan must be reviewed by both the planning commission and the city commission. However, when the boundary lines of an established zoning district are proposed for changes (rezoning), the city commission shall have the planning commission prepare an evaluation of each such proposed rezoning considering each of the following factors:

- (1) Existing uses and zoning of nearby property;
- (2) The extent to which property values are diminished by the present zoning restrictions;
- (3) The extent to which the destruction of property values resulting from existing zoning of the applicant's parcel promotes the health, safety, morals or general welfare of the public;
- (4) The relative gain to the public, as compared to the hardship imposed upon the individual property owner;
- (5) The suitability of the subject property for the zoning purposes, as proposed;
- (6) The length of time the property has been vacant as zoned, considered in the context of land development in the area in the vicinity of the property; and
- (7) Conformity with or divergence from the comprehensive plan.

(b) *Place of hearing.* The public hearings will be convened at the advertised time and place and will be presided over by the appropriate officials.

(c) *Conduct of hearing.* The chair of each respective public hearing will review for those present the following operating procedures for the public hearing:

(1) In order for a person in attendance to speak, the chair must recognize the speaker. Upon rising to speak, the person recognized will be identified for the public record. The chair may also request that the person furnish a home or business street address, as appropriate.

(2) The person speaking will be allowed a reasonable amount of time, usually not exceeding five minutes, to express opinions and make comments on each separate element of the proposed revisions they wish to address. Proponents and opponents of each zoning decision or application shall have an equal minimum time period of not less than ten minutes per side for presentation of data, evidence and opinion. A designated timekeeper shall record the time expended by each speaker.

(3) Additional persons will be recognized per this procedure for the purpose of addressing additional elements of the proposed revisions or to make additional points with regard to elements already addressed, but not to rehash points already made.

(d) *Appropriate notes or minutes.* Appropriate notes or minutes will be recorded by the city commission and the planning commission at their respective public hearings.

(e) *Recommendation of planning commission.* The planning commission shall prepare and submit the necessary minutes, evaluations and/or recommendations to the city commission prior to the city commission's public hearing.

(f) *Consideration by city commission.* The city commission, at its official public hearing, will review the evaluations and recommendations from the planning commission and may choose to adopt, reject, or modify the planning commission's recommendations, or the business may be tabled for additional study to a time certain as determined by the commission.

Procedures for rezoning request by citizens/property owner.

(a) *Application.* An application for a rezoning or conditional use must be filed with the city clerk or his designee at city hall on a prescribed form. Fees shall be paid at the time of application.

(b) *Public hearing dates.* The city clerk or his designee will inform the applicant as soon as practical of the public hearing dates. Although the planning commission will convene a public hearing on each proposal, the official public hearing will be held by the city commission. Public notice of each hearing will appear in a newspaper of general circulation within the city not less than 15 days or more than 45 days before the date of the official public hearing.

(c) *Hearing notice.* The public hearing notice will name the applicant, the location of property to be affected, the present zoning class, the proposed zoning class and the date, time and place of both the planning commission hearing and the public hearing held by the commission. This shall apply to requests for zoning amendment to the text, amendment to the zoning maps, conditional uses, special uses, permits for home occupations, and variances.

(d) *Notification of affected parties.* In order to inform those parties directly affected by the proposed action and the general public, city officials shall do the following:

(1) Have erected upon the property for which rezoning is to be considered a sign of no less than 17 inches by 24 inches announcing the public hearings, stipulating the dates, times, and places for the two hearings, the present zoning class and the proposed zoning class. The sign shall be clearly visible from a public street. It shall be erected not less than 15 days or more than 45 days before the first public hearing date.

- (2) ~~Give due notice to the parties concerned, including all owners of records of property and residence within 300 feet of the premises in question. Such notices shall be delivered personally or by mail addressed to the respective owners at the address given on the last tax assessment roll. Copies of said notices, including receipts if sent by certified mail, will be kept by the planning commission.~~

(e) *Review of petitions by the planning commission.* The planning commission shall review all petitions for a rezoning, special use, conditional use or related petitions in accordance with this chapter. All meetings of the planning commission shall be held at the call of the chairman or, in his absence, the vice-chairman, and at such time as the board may determine. All meetings of the planning commission shall be open to the public.

(f) *Conduct of hearing.* The place and conduct of the public hearing shall be in accordance with the provisions of this article. All applicable general review standards of **section 23-47(a)** and as contained in state law shall be considered in the review process.

(g) *Period of resubmittal for zoning amendment.* If a petition or application for zoning, variance amendment or conditional use has been denied by the city commission, a minimum of 12 months must pass before the same amendment proposal is again submitted for consideration.

Procedures for a conditional use request.

(a) *Application.* An application for a conditional use within a zoning district must be filed with the city clerk or his designee at city hall on a prescribed form. Fees shall be paid at the time of application.

(b) *Public hearing dates.* The city clerk or his designee will inform the applicant as soon as practical of the public hearing dates. Although the planning commission will convene a public hearing on each proposal, the official public hearing will be held by the city commission. Public notice of each hearing will appear in a newspaper of general circulation within the city not less than 15 days or more than 45 days before the date of the official public hearing.

(c) *Hearing notice.* The conditional use public hearing notice will name the applicant, the location of property to be affected, the present zoning class, the proposed zoning class and show its conditional uses notation, such as R-3C. The notice shall also contain the date, time and place of both the planning commission hearing and the public hearing held by the commission.

(d) *Notice, hearing and resubmittal requirements.* The same general notice requirements, all provisions concerning conducting hearings, general review of special use petitions, and period of resubmittal as contained herein shall apply.

Standards for a conditional use.

Conditional uses are those uses which, without the proper scrutiny and conditions, may be appropriately located within certain specified zoning districts.

- (1) *Authorization.* The city shall issue a certificate of authorization for a conditional use to an applicant when the conditions relating to the special exception uses listed herein are met, and after public notice and hearing procedures have been followed.

- (2) *Special exceptions.* The special exceptions which could be allowed within any zoning classification are as follows:

a. Any facility for the disposal of the dead, provided all requirements for a cemetery have been satisfied.

b. Cemeteries for human or animal interment with the following minimum requirements:

1. Minimum lot size of ten acres;

2. Minimum public road frontage of 100 feet;

3. When abutting any residential property line, a 50-foot natural/landscaped buffer shall be approved by city staff (see buffer standards);

4. Permanent public ingress/egress shall be provided;

5. Compliance with all state requirements; and

6. Overall parking and landscaping plan approved by city staff.

c. Churches, chapels, temples, synagogues, and other such places of worship with the following minimum requirements:

1. ~~Minimum lot size of five acres.~~

2. Structures associated with said use to be located a minimum of 50 feet from any property line.

3. Structures associated with said use to be limited to 55 feet in height.

4. When abutting any residential property line, a 35-foot landscaped screening buffer shall be approved by city staff as well as any other requirements for buffer zones set forth in this code.

5. Overall parking and landscape plan for the entire site to be approved by city staff.

6. One paved parking space shall be provided per four seats in the main assembly area; provided that the number of spaces thus required may be reduced by not more than 50 percent if the place of worship is located within 500 feet of any public parking lot or any commercial parking lot where sufficient spaces are available by permission of the owner without charge during the time of services to make up the additional spaces required.

7. An approved lighting plan.

8. A church may have an accessory cemetery with the following minimum requirements:

(i) Minimum of two acres for cemetery ~~in addition to a five-acre requirement for a church;~~

(ii) When abutting any residential property line, a 50-foot natural landscaped buffer shall be approved by city staff;

(iii) Ingress/egress shall be provided; and

(iv) Compliance with all state requirements.

d. A church may have an accessory school with the following minimum requirements:

1. Minimum lot size of three acres for a church with an accessory school; ~~in addition to a five-acre requirement for a church;~~
2. Minimum public road frontage of 100 feet;
3. Overall parking and landscape plan for entire site to be approved by city staff; and
4. One paved parking space per every one full-time employee of the accessory school in addition to required parking for the principal church use.

e. Mausoleums when used in conjunction with a cemetery, provided that all requirements for the cemetery have been satisfied.

f. Community center, defined as a place, structure, area, or other private or nonpublicly owned facility used for and providing religious, fraternal, social, and/or recreational programs generally open to the public and designed to accommodate and serve significant segments of the community.

1. Minimum lot size of three acres;
2. Structures associated with said use to be located a minimum of 35 feet from any property line;
3. Structures associated with said use to be limited to 45 feet in height;
4. When abutting any residential property line, a 25-foot landscaped, screening buffer shall be approved by city staff (see buffer standards);
5. Overall parking and landscape plan for entire site, to be approved by city staff;
6. One paved parking space shall be provided for every person lawfully permitted within the assembly areas at one time, plus one per employee, or, in the absence of designated assembly areas, one paved space per 300 square feet of gross floor area; and
7. An approved lighting plan.

g. Private schools of general and special education with the following minimum requirements:

1. Minimum lot size of five acres;
2. Minimum public road frontage of 100 feet;
3. Overall parking and landscape plan for entire site, to be approved by city staff; and
4. One paved parking space shall be provided for every person lawfully permitted within the assembly areas at one time, plus one per employee, or, in the absence of designated

assembly areas, one paved space per 300 square feet of gross floor area; and

5. An approved lighting plan.

Procedures concerning variances.

(a) The planning commission may, upon appeal of the denial of a building permit by the city staff, in specific cases, grant such variances from the terms of this chapter as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this chapter will, in an individual case, result in unnecessary hardship so that the spirit of this chapter shall be observed, public safety and welfare secured, and substantial justice done. Such variances may be granted in such individual cases of unnecessary hardship upon specific written findings by the planning commission that:

- (1) There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, or topography;
- (2) The application of this chapter to this particular piece of property would create an unnecessary hardship;
- (3) Such conditions are peculiar to the particular piece of property involved, and not of the making of the applicant;
- (4) Relief, if granted, would not cause substantial detriment to the public good or impair the purposes and intent of this chapter; provided, however, that no variance may be granted for a use of land, building or structure that is prohibited by this chapter;
- (5) Public hearing notices relating to the review of a variance will name the applicant, the location of the property requesting variance, present zoning classification, the zoning district by specific article, section, and subsection to be varied, as well as the specific measurements or requirements to the ordinance being requested. The date, time and place of the planning commission hearing will be held; and
- (6) The city clerk or his designee will inform the applicant as soon as practical of the public hearing dates. The planning commission will convene a public hearing on each request for variance. Public notice of the hearing will appear in a newspaper of general circulation within the city no less than 15 days or more than 45 days before the date of the official public hearing.

(b) In the event the planning commission determines not to grant a variance, or the variance request is unacceptable to city staff, either party may appeal for a final (and official) public hearing before the commission. This appeal shall be in writing, and must be filed within five days of the decision of the planning commission. All notification procedure, review, conduct of hearing and resubmittal requirements as generally contained in this chapter shall apply to a review of a variance.

Approval period.

No order of the planning commission permitting the erection or alteration of a building shall be valid for a period longer than six months unless such use is established within such period; provided, however, that where such use permitted is dependent upon the erection or alteration of a building, such order shall continue in force and effect if a building permit for said erection or alteration is obtained within such period, and such erection or alteration is started and proceeds to completion in accordance with such permit.

Administrative assistance.

The city shall provide such technical, administrative, and clerical assistance and office space as is required by the planning commission, zoning board of appeals, and city commission to carry out its function under the provisions of this chapter.

Fees.

All applicants for a rezoning, a text amendment, a conditional use, a conditional use, a home occupation license, a variance, or an inspection/lot location within a district shall be accompanied by a fee payable to the city to defray expenses incidental to the processing of such applications. A listing of all applicable scheduled fees is attached in the appendix to this code.

Penalty for violations of provisions.

(a) Any person who violates, disobeys, omits, neglects or refuses to comply with, or resists the enforcement of any of the provisions of this chapter shall be guilty of a misdemeanor and subject to a fine up to \$1,000.00 after receiving 30 days' notice of the violation, and an opportunity for hearing as to any such violations. Said notice shall be in writing and issued by the city.

(b) Each day that a violation is permitted to exist after due notice is given shall constitute a separate offense.

ARTICLE _

NON CONFORMING USES

Within the districts established by this Ordinance or amendments that may later be adopted there exists:

- (1) Lots;
- (2) Structures;
- (3) Uses of land and structures; and,
- (4) Characteristics of use.

which were lawful before this Ordinance was passed or amended, but which would be prohibited, regulated, or restricted under the terms of this Ordinance or future amendment. It is the intent of this Ordinance to permit these non-conformities to continue until they are removed, but not to encourage their survival. It is further the intent of this Ordinance that non-conformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.

Non-conforming uses are declared by this Ordinance to be incompatible with permitted uses in the districts involved. A non-conforming use of a structure, a nonconforming use of land, or a non-conforming use of structure and land in combination shall not be extended or enlarged after passage of this Ordinance.

To avoid undue hardship, nothing in this Ordinance shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption of this Ordinance and upon which actual building construction has been diligently carried on; provided that the building shall be completed within one year from the date of the ordinance from which this chapter is derived and is not the subject

of a proper enacted moratorium. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner. Where excavation or demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such excavation or demolition or removal shall be deemed to be actual construction.

Classification changes.

(a) When a district shall be changed, any then existing nonconforming use in the changed district may be continued or changed to a use of similar or higher classification, provided all other regulations governing the new use are complied with.

(b) Whenever a nonconforming use has been discontinued or changed to a higher classification or to a conforming use, such use shall not thereafter be changed to a nonconforming use or a lower classification.

Non Conforming uses of land (or Land with minor structures only)

Where at the time of passage of this Ordinance lawful use of land exists which would not be permitted by the regulations imposed by this Ordinance, and where such use involves no individual structure with a replacement cost exceeding One Thousand Dollars (\$1,000), the use may be continued so long as it remains otherwise lawful, provided:

- (a) No such non-conforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Ordinance;
- (b) No such non-conforming use shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such use at the effective date of adoption or amendment of this Ordinance;
- (c) If any such non-conforming use of land ceases for any reason for a period of more than thirty (30) days, any subsequent use of such land shall conform to the regulations specified by this Ordinance for the district in which such land is located; and,
- (d) No additional structure not conforming to the requirements of this Ordinance shall be erected in connection with such non-conforming use of land.

Non – Conforming Structures or Structures and Premises in Combination

If lawful use involving individual structures with a replacement cost of One Thousand Dollars (\$1,000) or more, or of structure and premises in combination, exists at the effective date of adoption or amendment of this Ordinance, that would not be allowed in the district under the terms of this Ordinance, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

- (a) No existing structure devoted to a use not permitted by this Ordinance in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located

- (b) Any non-conforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this Ordinance, but no such use shall be extended to occupy any land outside such building;
- (c) If no structural alterations are made, any non-conforming use of a structure, or structure and premises, may as a special exception be changed to another non-conforming use provided that the Commission, either by general rule or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing non-conforming use. In permitting such change, the Commission, may require appropriate conditions and safeguards in accord with the provisions of this Ordinance;
- (d) Any structure, or structure and land in combination on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district, and the non-conforming use may not thereafter be resumed;
- (e) When a non-conforming use of a structure, or structure and premises in combination, is discontinued or abandoned for sixty days (except when government action impedes access to the premises), the structure, or structure and premises in combination, shall not thereafter be used except in conformity with the regulations of the district in which it is located; and
- (f) Where non-conforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the non-conforming status of the land. Destruction for the purpose of this subsection is defined as damage to an extent of more than fifty percent (50%) of the replacement cost at the time of destruction. If a nonconforming building and premises in combination suffers damage which does not exceed fifty percent (50%) of its fair market value immediately preceding such damage, the building and premises may be reconstructed, restored and reused (as before) if completed within 12 months from the time such damage occurred.
- (g) Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

Repairs and Maintenance

On any non-conforming structure or portion of a structure containing a nonconforming use, work may be done in any period of 12 consecutive months on ordinary repairs, or on repair or replacement of non-bearing walls, fixtures, wiring, or plumbing, to an extent not exceeding fifty percent (50%) of the current replacement cost of the nonconforming structure or non-conforming portion of the structure as the case may be, provided that the cubic content existing when it became non-conforming shall not be increased.

If a non-conforming structure or portion of a structure containing a non-conforming use becomes physically unsafe or unlawful due to lack of repairs and maintenance, and is declared by any duly authorized official to be unsafe or unlawful by reason of physical condition, it shall not thereafter be restored, repaired or rebuilt except in conformity with the regulations of the district in which it is located.

Nothing in this Ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

Any use which is permitted as a conditional use in a district under the terms of this Ordinance (other than a change through Commission action from a non-conforming use to another use not generally permitted in the district) shall not be deemed a non-conforming use in such district, but shall without further action be considered a conforming use.

Amortization and discontinuance

There are found to be certain uses of land, buildings and structures which have an adverse effect on the carrying out of the comprehensive plan and which can reasonably be discontinued after a reasonable time irrespective of aforementioned rules as to nonconforming uses. The following uses shall be removed or made conforming within the specified amortization period. Said amortization period shall commence upon the effective date of this Ordinance.

- (a) Fences, walls and foliage which constitute a hazard by virtue of impairing sight distances at a curve or intersection shall be made conforming within one (1) calendar year.
- (b) Outdoor advertising signs and billboards deemed a nuisance or hazard shall conform within five (5) years.
- (c) All provisions in business or industrial districts of this Ordinance setting forth specifications for the operation of a business or industry requiring fencing or opaque shielding shall be complied with within one (1) calendar year. This shall include buffer zones.
- (d) Non-conforming open storage operations, such as truck parking, automobile wrecking or salvage, salvage material storage and similar uses shall be made conforming within two (2) calendar years.

ARTICLE __.

ZONING DISTRICTS ESTABLISHED; ZONING MAP

Division of city into districts; districts enumerated.

In order to regulate and limit the height and size of buildings, to regulate and limit the intensity of the use of lot areas, to regulate and determine the area of open spaces within the surrounding buildings, to classify, regulate and restrict the location of trades and industries, and the location of buildings designed for specified industrial, business, residential and other uses, the city is hereby divided into the following districts:

- (1) RE, Estate Residential
- (2) R-1, Single-family (low density) residential district.
- (3) R-2, Single-family (medium density) residential district.
- (4) R-3, Residential District (duplex)
- (5) R-4, Residential District (multifamily)
- (6) C-1, Central Business District
- (7) C-2 General Business District

- (8) O-I, Office Institutional District
- (9) C-N Neighborhood Commercial District
- (10) I-1, Light Industrial District
- ~~(11) I-2, General Industrial District~~
- (12) I-2, Heavy Industrial District
- (13) SU-1, Special Use District
- (14) SU-2, Special Use Classification
- (15) PD, Planned Development

Official zoning map.

The "Official Zoning Map of the City of Cedartown, Georgia," shall be the official title; however, it may be referred to as the "Cedartown Zoning Map." The boundaries of all districts, as shown upon the official zoning map, are hereby adopted, established and declared to be in effect upon all land included within the boundaries of each district shown upon the official zoning map.

Rules for determining boundaries.

Where uncertainty exists as to boundaries of any district shown on the official zoning map, the following rules shall apply:

- (1) Where district boundaries are indicated as approximately following street lines, alley lines or lot lines, such lines shall be construed to be the boundaries.
- (2) In unsubdivided property or where a district boundary divides a lot, the location of such boundary, unless dimensions indicate the same, shall be determined by the use of the scale appearing on the original map. Where a district boundary divides a lot, the zone classification of the greater restriction shall prevail throughout the lot.
- (3) In case any further uncertainty exists, the commission shall interpret the intent of the map as to the location of such boundaries.
- (4) Where any street or alley is officially vacated or abandoned, the regulations applicable to each parcel of abutting property shall apply to that portion of such street or alley added thereto by virtue of vacation or abandonment.

Adopted by reference.

(a) The zoning map on file in the office of the city clerk (adoption date as amended) is hereby adopted by reference as fully and to the same effect as though set out at length herein.

Facsimile for public inspection.

A facsimile copy of the original zoning map shall be framed and placed at some conspicuous place in city hall, subject to inspection at any time during regular office hours by any interested person.

Newly annexed land.

All land newly annexed to the corporate limits of the city shall be regulated in accordance to The Zoning Procedures Law (O.C.G.A. § 36-66-1 et seq.) of the state and zoning policies and procedures outlined in herein. The required hearings will be held prior to annexation, and an additional notice of annexation will be published in the local newspaper. The default zoning classification for any newly annexed property shall be either RE- Residential Estate or Planned Development (PD-1, PD-2, PD-3 or PD-4).

DISTRICT REGULATIONS

GENERALLY

Application of Article.

The regulations set forth in this article shall apply to buildings, structures and real property located within the corporate limits of the city.

Use.

No building shall be moved, erected, reconstructed or structurally altered, nor shall any building or land be used which does not comply with all the district regulations specified by this article for the district in which the building or land is located.

Lot regulations.

(a) *Substandard lots.* Any residentially zoned lot which was of record at the time of the adoption of the ordinance from which this chapter is derived that does not meet the requirements of this chapter for yards or other area or open space may be utilized for single residence purposes, provided that:

- (1) In the absence of the ability to connect to the wastewater treatment system due to the unavailability of city sewer connection, the lot can meet the requirements of the county health department for the installation of a septic tank.

When a subdivision of land or portion thereof contains lots or parcels of land that do not conform to the lot area or lot frontage provisions of this article and such tract of land is under one ownership and has remained unimproved or undeveloped for a period of two years from the effective date of the ordinance from which this chapter is derived, it shall be incumbent upon the owner of such tract to replat the tract to conform to the minimum area and frontage provisions of this article for the district in which the lands are located, in the event of a sale of any portion of the land.

(b) *Lot reduction below minimum requirements prohibited.* No parcel of land, even though it may consist of one or more adjacent lots of record, shall be reduced in size so that lot width or depth, front, side, or rear yard, inner or outer courts, lot area per unit, or other requirements of this chapter are not maintained. This section shall not apply when a portion of a lot is acquired for public use.

- (c) *Lot size.* All lots shall conform to the area requirements set forth in the zoning districts in which they are

located. Residential corner lots shall have adequate width to permit appropriate building setbacks from, and orientation to, both abutting streets.

(d) *Building lines.* A building line meeting the front, rear and side yard setback requirements of the zoning district in which the parcel of land is located shall be established on all lots.

(e) *Double frontage lots.* Double frontage lots should be avoided, except where essential to provide separation of residential development from traffic arteries or to overcome specific disadvantages of topography and orientation. When allowed, a strip of land at least 20 feet in width, and across which there shall be no right of access, shall be provided along the lot or line of lots abutting such traffic artery.

(f) *Lot required to abut public street.* No building or structure shall be erected on a lot or portion of a lot which does not abut on a public street for at least 25 feet.

(g) *Access to public streets.* Access to public streets shall be maintained in accordance with a minimum 25-foot frontage on a public street.

(h) *Inspection permit requirements.* To ensure the provisions of this chapter are complied with by the petitioner, no building, structure or site alterations shall be allowed to commence on a lot or portion of a lot before a building permit is obtained from the city.

(i) On lots having frontage on more than one street at an intersection, the minimum front yard requirement may be reduced to one-half the regulated distance on the portion of the lot fronting on the street or streets of less importance. However, in no case shall the setback be reduced to less than 25 feet. The minimum front yard for the portion of the lot fronting on the street of greater importance shall be provided in accordance with the provisions established by this ordinance for the district in which the lot is located. For purposes of establishing the front yard, such yard shall be designated as that having the shortest frontage on the street.

Prohibited uses in all residential districts.

(a) It shall be a prohibited use in all residentially zoned districts to park or store wrecked or junked vehicles, power-driven construction equipment, logging trucks and/or trailers for used lumber or metal, school buses, church buses, travel buses, wreckers with vehicles attached or any other miscellaneous scrap or salvageable material.

(b) Tractors, trailers, tractor trailers or any combination thereof shall not be placed or stored in residentially zoned districts or subdivisions.

(c) No livestock shall be kept or maintained in any residential zone except that for each dwelling unit the occupant may keep for his personal use of commonly accepted domestic pets (dogs and cats, etc.) so long as they are not kept or used for commercial or breeding purposes, or as to create a nuisance. No one shall keep a horse on a lot of less than five acres. No one may keep a horse in any structure or enclosure which is located less than 75 feet from the adjoining property line and 100 feet from an adjoining dwelling. Chicken/poultry houses shall not be permitted within residential districts. The keeping of animals of a wild nature shall not be allowed.

Accessory and temporary buildings and satellite dish antennas.

(a) *Accessory buildings.* Location and uses of accessory buildings in all zoning districts shall be governed by the following conditions:

(1) *Attached to main dwelling.* Where an accessory building is attached to the main building, a substantial part of one wall of the accessory building must be an integral part of the main building, and such accessory building must be attached to the main building in a substantial manner by a roof. Such attached accessory building shall comply in all respects with the requirements applicable to the main building.

(2) *Detached from main dwelling.* A detached accessory building shall not be closer than ten feet to a lot line nor should it be a habitable building. Carports projecting from the front of a house are disallowed.

(3) *Height and lot coverage requirements for detached accessory building.* A detached accessory building shall not exceed 15 feet in height and shall not be located in a front yard. A detached accessory building may be located in a side or rear yard but may not cover more than 20 percent of the side or rear yard.

(b) *Temporary buildings.* Temporary buildings may be used only in conjunction with construction work in any zoning district and shall be removed immediately upon the completion of construction. A certificate of zoning compliance must be obtained for use of a temporary building.

(c) *Satellite dish antennas.* Satellite dishes shall be no more than 36 inches in diameter in residential zones.

Buildings to be located on lots.

Every building hereafter erected or structurally altered shall be located on a lot, and in no case shall there be more than one principal building and the customary accessory buildings on one lot or parcel of land, except as provided for group projects herein.

Locations of structures on residential lots.

(a) No detached accessory building shall be located on the front yard of a lot, nor on a side yard except in conformity with this chapter.

(b) When an accessory building is attached to a principal structure by a breezeway, roofed passage or otherwise, it shall comply with the dimensional requirements of the principal building.

(c) A detached accessory building shall not be constructed closer than 15 feet to the side and ten feet to the rear lot lines.

(d) An accessory building shall not exceed 15 feet in height, nor occupy more than 20 percent of a required rear yard.

(e) No person shall reside in an accessory building or structure.

Site distance at intersections.

In all zoning districts, no fence, wall, hedge, or shrub planting which obstructs the site lines at elevations between two feet and 12 feet above the roadways shall be placed on any corner lot within the triangular area formed by the street property lines and a line connecting them at points 25 feet from the intersection of the street lines, or, in the case of a rounded property corner, from the intersection of the street property lines.

Building height restrictions.

(a) *General application.* No building or structure shall hereafter be erected, constructed, or altered so as to exceed the height limits specified in this chapter and set out for the district in which it is located.

(b) *Permitted exceptions to height regulations.* The building height restrictions imposed on buildings and structures by this chapter for each zoning district shall not apply to the following buildings or structures:

- (1) Churches, schools, hospitals, sanitariums, and other public buildings and public utility structures. There shall be no restriction on the height of such buildings or structures, provided that the front, side, and rear yards required in the district in which such building is to be located shall be increased an additional one foot for each ten feet that the building exceeds the maximum height permitted in the district;
- (2) Barns, silos, grain elevators, other farm structures, belfries, cupolas, domes, monuments, water towers, transmission towers, windmills, chimneys, smokestacks, flagpoles, radio towers, masts, and aerials; and
- (3) Where located on building roofs, bulkheads, water tanks, scenery lofts, and similar structures, provided that such structures shall not cover more than 25 percent of the total roof area of the building.

None of these exceptions to height limits shall apply to temporary or business signs, which shall be subject to all height limitations of the district in which they are located and other applicable requirements of the city.

Maximum Lot Coverage

(a) The maximum lot coverage by buildings in all residential zoning or residential use areas shall be 35 percent.

Yards.

(a) Every part of a required yard shall be open from its lowest point to the sky, unobstructed, except for the ordinary projections of sills, belt courses, cornices, buttresses, ornamental features, chimneys and eaves, but none of these projections shall project into a minimum side yard more than 24 inches.

(b) On double frontage lots, the required front yard shall be provided on each street.

(c) Open or enclosed fire escapes, fireproof outside stairways and balconies may project into a minimum yard or court not more than 3 1/2 feet. Ordinary projections of chimneys and flues shall be permitted.

(d) Where boundary lines have been established on streets, roads or highways (known as rights-of-way, easements, etc.), the front yard of all lots and the side yards of corner lots shall be measured from such property boundary lines so as to meet the minimum setback requirements per each zoning district.

(e) The minimum yards and other open spaces required by this section for each building shall not be encroached upon, nor considered as a yard or open space for any other building.

(f) No yard, court or open space, or part thereof, shall be included as a part of the yard, court or open space similarly required for any other building, structure or dwelling, unless approved as a part of a general commercial development.

Buffer areas and screening-Variance.

(a) *Purpose; when required.* The use of buffer areas and screening reduces potential incompatibility between or among different uses of land in proximity to each other. Where the city determines that a proposed use of land or the granting of a variance from the requirements of this chapter would have an unfavorable impact on an adjoining use, or the granting of a permit for such use or variance, a permanent buffer area or screening will be established.

(b) *Buffer area formation and maintenance.* Buffer areas, when required, shall be established and permanently maintained under the following provisions:

- (1) Be maintained as a planted area (or landscaped berm), using existing vegetation, or, when required, additional plantings as provided in this subsection;
- (2) Be in such dimension as the city may determine necessary, but in no event less than 20 feet measured at right angles to property lines contiguous to the designated property line(s);
- (3) Be landscaped with trees, shrubs, flowers, grass, stone, rocks and other landscaping materials; landscaping plants shall be composed of healthy plants which possess growth characteristics of such a nature so as to produce a dense compact planting screen of not less than six feet in height;
- (4) Be free of structures other than a fence, and not be used for parking, utility easements, or drainage improvements, unless the applicant can demonstrate that these improvements are necessary;
- (5) The natural topography of the land shall be preserved and natural growth shall not be disturbed beyond that which is necessary to prevent a nuisance, or to thin natural growth where too dense for normal growth, or to remove diseased or dangerous and decayed timbers. However, with commission approval, a slope easement may be cleared and graded where required to prevent soil erosion. This easement may cover no more than 20 percent of the required buffer area, and shall be immediately replanted upon completion of easement improvement; and
- (6) Where, by reason of the topography of the land or by reason of the prior removal or lack of timber and foliage, the owner of the buffer area may be required to erect a permanent wall or fence of not less than six feet in height or screen of evergreen plantings, so designed and developed to provide visual screening. These plantings shall consist of evergreen shrubs that will, with normal growth, attain a height of six feet within three years.

Additional Greenscaping/Landscaping Requirements.

PURPOSE

It is the purpose of these provisions to provide environmentally sound landscape amenities and buffers which promote a positive community image by promoting quality development, enhancing property values, providing for landscape improvements in the City and promoting orderly growth and aesthetic quality in the City. It is also the intent to promote a healthy, natural environment whenever possible by protecting and enhancing existing vegetation.

Landscaping enhances a community's environmental and visual character and improves the overall quality of life. Vegetation can also improve air and water quality, reduce soil erosion, reduce noise and glare, provide habitat for wildlife, moderate the climate and enhance property values, thus protecting the health, safety and welfare of the community.

However, inappropriate landscaping can degrade the quality of the natural environment by requiring excess water and pesticides, or by creating unnecessary conflicts with sewers, sidewalks and vehicle access. Thus it is important to promote environmentally sound landscaping, including the use of low-maintenance, drought-resistant and native or non-

invasive plants, and to ensure that the right tree is planted in the right place. Environmentally sound landscaping also means prohibiting the use of invasive and potentially invasive species. Although well-mannered non-native species can be welcomed additions to a landscape, invasive species can cause severe economic and environmental harm (including crop damage and degradation of native habitats) and can engender significant control costs.

These provisions also establishes additional standards for buffers between certain uses. Buffers between two incompatible uses minimize harmful impacts such as transmission of noise, dust and glare. Buffers can also lessen visual pollution, establish a greater sense of privacy from visual or physical intrusion, and thus protect the public health, safety and welfare of the community. The presence of trees and other vegetation aids in storm water management, helps to prevent erosion, improves air quality, conserves energy, provides wildlife habitat and preserves and enhances property values.

Additionally, this Ordinance is intended to require the landscaping of new parking lots in order to reduce the harmful effects of wind and air turbulence, heat and noise, and the glare of motor vehicle lights; to prevent soil erosion; to provide shade; and to enhance the appearance of parking lots.

DEFINITIONS

For the purposes of this Ordinance, the following words are defined:

Arborist: The agent(s) of the City having the primary responsibilities for administering and enforcing this code section.

Berm: An earthen mound designed to provide visual interest, screen undesirable views and/or decrease noise.

Buffer: A combination of physical space and vertical elements, such as plants, berms, fences or walls, the primary purpose of which is to separate and screen incompatible land uses from each other.

Deciduous: A plant with foliage that is shed annually.

Diameter Breast Height (dbh): The standard measure of tree size for those trees existing on a site that are at least four-inch caliper at a height of four and one-half (4.5) feet above the ground. If a tree splits into multiple trunks below four and one-half (4.5) feet, then the trunk is measured at its most narrow point beneath the split.

Evergreen: A plant with foliage that persists and remains green year-round.

Frontage: The length of a property abutting a street, or the length of a building fronting a street.

Ground Cover: Living material planted in such a way as to form an eighty (80) percent or more ground cover at the time of planting and a continuous cover over the ground that can be maintained at a height of not more than eighteen (18) inches.

Hedge: An evenly spaced planting of shrubs that forms a compact, dense, visually opaque living barrier. Hedges inhibit passage or obscure views.

Invasive Species: A non-native species that can cause environmental or economic harm, or harm to public health.

Landscaping: Any combination of living plants, such as trees, shrubs, vines, ground covers, flowers, or grass, and which may include natural features such as rock, stone, bark chips or shavings, and structure features, including but not limited to fountains, pools, outdoor artwork, screen walls, fences or benches.

Landscape Plan: A graphic and written document containing criteria, specifications and detailed plans to arrange and modify the effects of natural features. A landscape plan consists of a site plan showing the boundaries of the property and the location of proposed plant materials, in relation to surroundings and improvements, along with a planting schedule and any additional specifications required by the Land Use Officer.

Natural Area: An area containing natural vegetation that will remain undisturbed when the property is fully developed.

Perimeter Landscaping: The use of landscape materials adjacent to the outer boundary of a parcel, or the outer boundary of a lease line, or the outer boundary of the developed area of a parcel.

Revegetation: The replacement of trees and landscape plant materials.

Screen: A method of reducing the impact of noise and unsightly visual intrusions with plants, berms, fences, walls or any appropriate combination thereof, to provide a less offensive or more harmonious environment in relation to abutting properties.

Shrub: A woody plant, smaller than a tree, consisting of several small stems from the ground or small branches near the ground and generally obtaining a height less than eight (8) feet; a shrub may be deciduous or evergreen.

Tree: Any self-supporting, woody perennial plant usually having a single trunk diameter of three (3) inches or more that normally attains a mature height of a minimum of fifteen (15) feet.

Woodland: A tract of land or part thereof dominated by trees but usually also containing woody shrubs, grasses and other vegetation.

APPLICABILITY

For parking lots of five spaces or more, the developer shall provide landscaping along the street right-of-way(s) to which the property has frontage, the parking lot perimeter and the parking lot interior as specified in this Ordinance.

Developers of new, nonresidential buildings shall provide landscaping between the building and the street right-of-way(s) to which the property has frontage, as specified in this Ordinance. Buffers and screening shall also be provided in accordance with this Ordinance.

No land use permit or building permit shall be issued, and it shall be unlawful to commence development or construction, until it is determined that the proposed development or building is in conformance with the provisions of the Ordinance, as applicable.

LANDSCAPE ADJACENT TO STREET RIGHT OF WAY

One of the following five planting specifications shall apply to all parking lots established after the adoption of this Ordinance. The applicant may choose but shall comply with one of the five following options for landscaping adjacent to the public right of way. The landscape requirement shall not apply to vehicle access areas and shall not include any other paved surfaces with the exception of pedestrian sidewalks or trails and areas approved for stormwater management. The topography of a particular site may necessitate the use of a combination of options along a given length of frontage.

Option 1. Minimum 10-foot wide landscape strip, planted with a minimum of one shade tree and 10 shrubs per 35 linear feet of street frontage, excluding driveway openings (Figure 4-5-1).

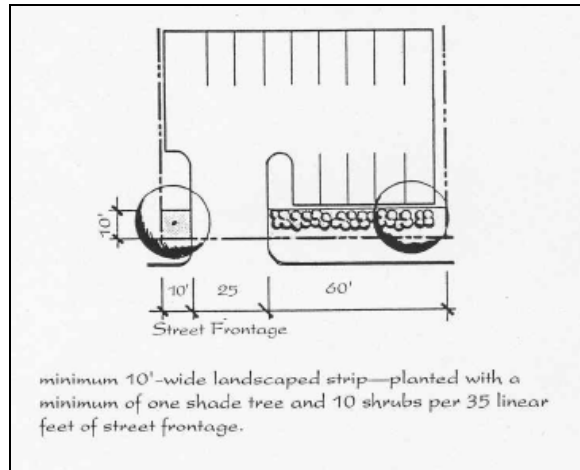


Figure 4-5-1

Option 1, Landscape Adjacent to Street Right-of-Way

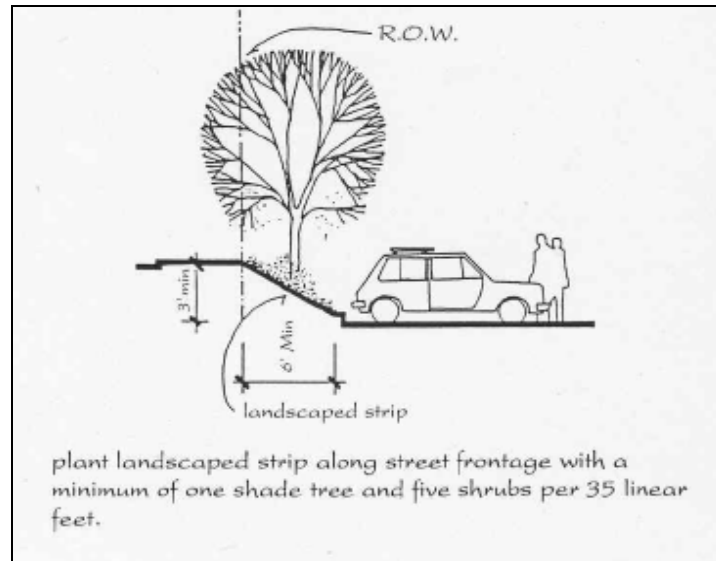
Option 2. An earth berm at least 2.5 feet higher than the finished elevation of the parking lot, with one shade tree and five shrubs for every 35 linear feet of frontage (Figure 4-5-3).



Figure 4-5-2

Option 2, Landscape Adjacent to Street Right-of-Way

Option 3. A six-foot landscaped strip with a minimum three-foot grade drop from the right-of-way to the parking lot. One shade tree and five shrubs are required for every 35 linear feet (Figure 4-5-3).



Option 3, Landscape Adjacent to Street Right-of-Way

Option 4. A three-foot high fence of brick, stone, or finished concrete wall, with a four-foot buffer strip, planted with a minimum of one shade tree per 35 linear feet of frontage (Figure 4-5-4).

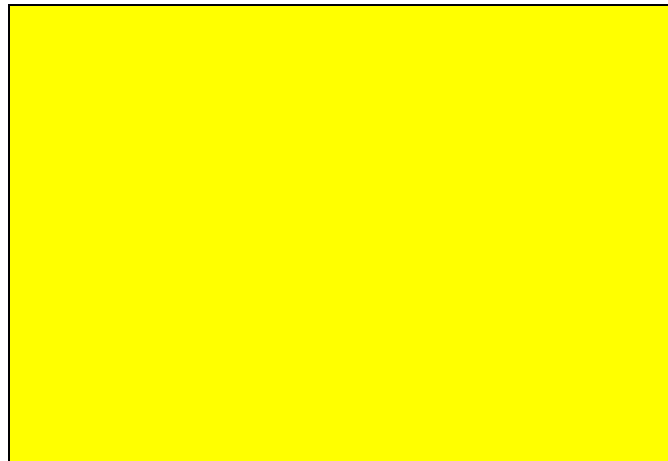


Figure 4-5-4

Option 4, Landscape Adjacent to Street Right-of-Way

Option 5. If existing woodlands are determined by the Arborist to be sufficient to meet the intent of this Ordinance, the applicant may preserve a 25-foot wide natural buffer strip to satisfy the requirements of this Code, subsection (Figure 4-5-5).

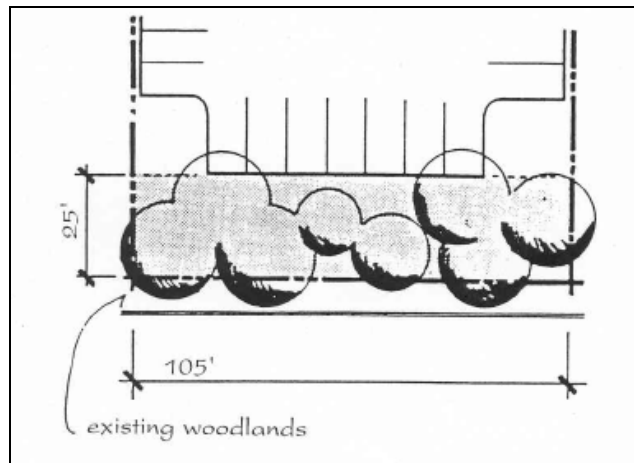


Figure 4-5-5
Option 5, Landscape Adjacent to Street Right-of-Way

§4-5-5 PARKING LOT LANDSCAPE ALONG OTHER PROPERTY LINES

Along all property lines not abutting a street right-of-way, or along the perimeter of the developed portion of the lot in case the development does not extend to a property line, parking lots subject to the requirements of this subsection shall include a perimeter landscape strip at least five (5) feet wide. The perimeter landscape strip shall not apply to interparcel access points but shall not include any other paved surfaces with the exception of pedestrian sidewalks or trails and areas approved for stormwater management. Within the perimeter landscape strip, the applicant shall install one (1) tree and three (3) shrubs for each 35 linear feet of property boundary along the perimeter to which this code subsection applies, unless the Arborist approves the use of existing woodlands or other vegetation as meeting the intent of this Ordinance. See Figure 4-5-6.

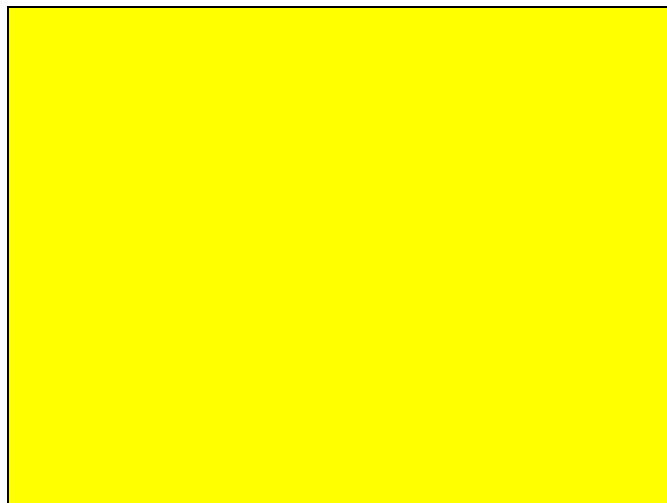
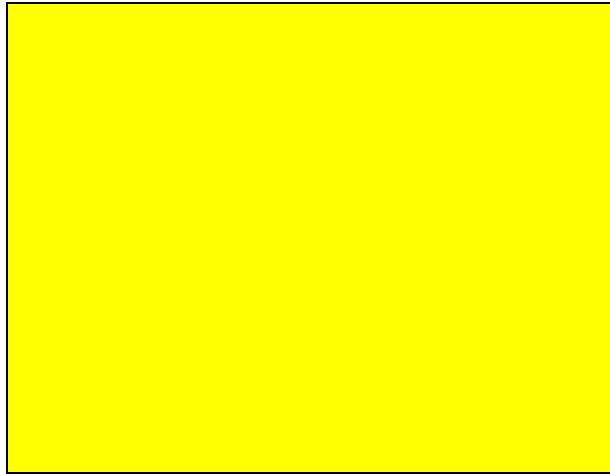


Figure 4-5-6
Perimeter Landscape Strip

§4-5-6 PARKING LOT INTERIOR LANDSCAPING

Interior lot landscaping shall be required for any parking lot subject to the requirements of this ordinance. An interior parking lot landscape island at least nine (9) feet wide (Figure 4-5-7) and at least 150 square feet in area shall be provided for every ten (10) spaces in each row of parking spaces abutting the perimeter or within the interior of the parking lot. Within each interior parking lot landscape island, a minimum two-inch (2") caliper tree shall be required to be planted and maintained.



LANDSCAPE BETWEEN BUILDINGS AND STREET RIGHT-OF-WAY

A landscape strip shall be required along the entire building frontage of any office, institutional, commercial or industrial building located within fifty (50) feet of a street right-of-way, between said building and the street right-of-way, except for approved pedestrian and vehicle access areas. For pedestrian retail districts or other areas where the requirements of this section may interfere with pedestrian access, a streetscape plan incorporating landscaping appropriate to the context, approved by the Arborist, may satisfy this requirement.

There shall be the following three (3) options that may be used singly or in any appropriate combination to comply with this code subsection, as proposed by the developer and approved by the Arborist.

Option 1. A minimum ten (10) foot wide landscape strip, with a minimum of one shade tree and 10 shrubs for every 35 feet of linear street frontage (Figure 4-5-8).

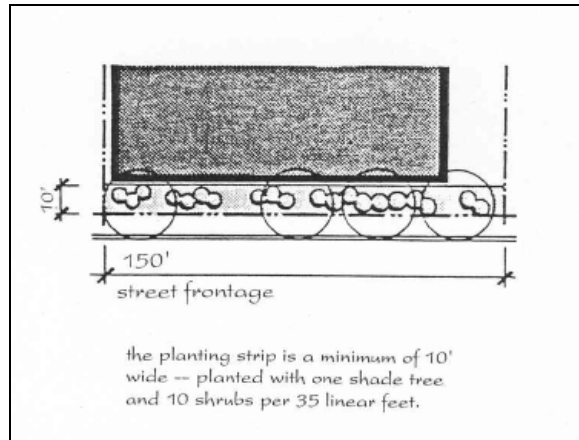


Figure 4-5-8

Option 1, Landscape between Nonresidential Building and Street Right-of-Way

Option 2. A strip of varying width, but with a minimum of (ten) 10 feet and averaging at least (fifteen) 15 feet wide, with a minimum of one shade tree and 5 shrubs per 35 linear feet (Figure 4-5-9).

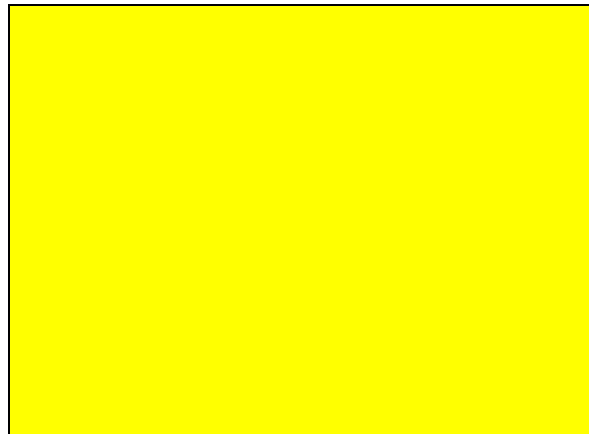


Figure 4-5-9

Option 2, Landscape between Nonresidential Building and Street Right-of-Way

Option 3. Existing woodlands at least 25 feet wide (Figure 4-5-10).

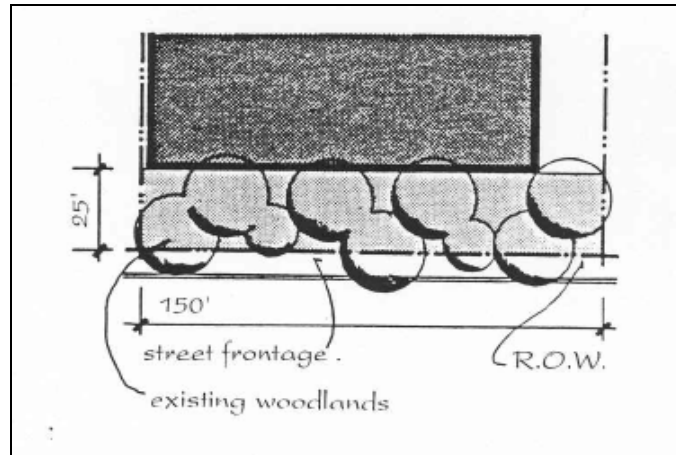


Figure 4-5-10
Option 3, Landscape Between Nonresidential Building
and Street Right-of-Way

§4-5-8 BUFFERS REQUIRED

Buffers for individual uses shall be provided according to the requirements of Table 4-5-3, as applicable, based on existing, adjoining uses.

Table 4-5-3
Minimum Required Buffer Width

PROPOSED USE	ADJOINING USE					
	Single-Family, Detached	Single-Family Attached (Townhouses)	Multi-Family Residential	Office or Institutional	Commercial	Industrial
Single-Family, Detached	None	None	None	None	None	None
Single-Family Attached (Townhouses)	10'	None	10'	20'	30'	40'
Multi-Family Residential	20'	10'	None	10'	20'	40'
Office or Institutional	20'	20'	10'	None	10'	30'
Commercial	30'	30'	20'	10'	None	20'
Industrial	40'	40'	40'	30'	20'	None

SCREENING AND BUFFER SPECIFICATIONS

Screening shall be established within all buffers that are required by this Code, along side and rear lot lines. The Arborist may require additional screening outside landscape strips and buffers that are required along side and rear lot lines, for purposes of obscuring features such as rear entrances, utility and maintenance structures, and loading facilities. Landscaping shall be used whenever possible to screen objectionable views, noises, or nuisances, such as service areas, refuse containers, air conditioning units, transformers, etc.

All required screening shall consist of shrubs and/or trees but may be supplemented with walls, fences or earth berms. Screening shall be of such nature and density to screen activities on the lot from view from the normal level of a first story window on an abutting lot and shall provide year-round maximum opacity from the ground to a height of at least six (6) feet. Trees and shrubs shall be installed to not only provide maximum opacity, but to allow for proper plant growth and maintenance.

To achieve maximum opacity within buffers, the following alternatives, or combination thereof, shall be considered by the applicant and applied, subject to the approval of the Arborist:

- (a) Six-foot high evergreen screening shrubs planted four (4) feet on center.
- (b) Tall evergreen trees stagger-planted with branches touching ground.
- (c) Combination of small shrubs planted thirty inches (30") on center, small trees planted thirty (30) feet on center, and large trees planted forty (40) feet on center.
- (d) Six-foot (6') high masonry wall.

In selecting materials and the size of plantings to be installed, the applicant and the Arborist shall consider the purpose of the landscape and the following required materials:

Purpose	Materials
Very dense sight barrier	Evergreen trees, sight-obscuring fence
Visual separation between uses	Evergreen and deciduous trees, shrubs
Visual separation of uses	Evergreen and deciduous trees, shrubs, berms
Provide visual relief	Ground covers and shrubs lower than 36 inches
Visual relief/shade in parking areas	Trees, ground cover, decorative mulch, pavers

GENERAL PROVISIONS

Visibility. Landscaping shall not restrict visibility of motorists or pedestrians (e.g., tall shrubs or low-lying branches of trees).

Clearance. Trees must have a clear trunk at least six (6) feet above finished grade to allow a safe clearance beneath the tree, except as otherwise provided by this Code Section.

Curb Stops. A curb or wheelstop shall be provided along interior parking lot landscape islands, perimeter landscape strips, and landscapes adjacent to street rights-of-way, to prevent cars from encroaching on trees, shrubs, and landscapes, as approved by the Arborist.

LANDSCAPE PLAN

A landscaping plan approved by the Arborist shall be required prior to the issuance of a land use permit or building permit to demonstrate compliance with the provisions of this Code. The landscape plan shall be based on an accurate boundary survey of the site or reasonable property description and shall include the following:

- (a) Location and general type of existing vegetation;
- (b) Existing vegetation to be saved;
- (c) Methods and details for protecting existing vegetation during construction;
- (d) Locations and labels for all proposed plants and a plant list or schedule showing the proposed and minimum required quantities;
- (e) Location and description of other landscape improvements, such as earth berms, walls, fences, screens, sculptures, fountains, street furniture, lights, and courts or paved areas;

APPROVAL OF LANDSCAPING AND OTHER MATERIALS

Approval of all landscaping and other materials by the Arborist shall be required. The Arborist shall have broad discretion in approving the specific types of landscaping and other materials provided in the landscape requirements of this Code Section. However, the following general guidance is provided and specific lists of approved species are provided in this Code:

- (a) The use of native plants as landscaping materials is encouraged wherever possible.
- (b) Invasive or potentially invasive plants are not permitted. However, well-mannered non-native plants are acceptable if they are not considered invasive or potentially invasive.
- (c) Existing tree cover and natural vegetation shall be preserved, whenever possible, or replaced with suitable vegetation.
- (d) Ground cover(s) should be used to supplement landscaping in appropriate areas to reduce the need for extensive grass lawns, which would require regular watering in drought conditions.
- (e) Grass areas shall be sodded. However, if grass seed must be used, it shall be a variety suitable to the area that produces complete coverage.
- (f) No artificial plants, trees, or other vegetation shall be installed.

TREE PLANTING GUIDELINES

- (a) Only healthy trees with a well developed root system and a well formed top, characteristic of the species, should be planted.
- (b) Trees selected for planting must be compatible with the specific site conditions.
- (c) The ability of a species to regenerate a new root system and to become reestablished should be considered. Generally, deciduous trees should be planted in the fall after leaf drop, or in early spring before bud break. There are indications that bare root trees will re-establish more readily if planted in early spring just prior to bud break.
- (d) Trees should not be planted deeper than they were in their former location or container.
- (e) Once the transplanted tree is set, the hole should be backfilled with soil of good texture and structure. Backfill material should be comprised of a mix of native soil, organic matter such as peat, and inorganic material such as perlite or vermiculite in a 1:1:1 ratio, although a back fill with native soil alone may be adequate.
- (f) The addition of fertilizer to backfill soil can cause root injury and is therefore not recommended. If fertilizer must be added, a small amount should be used. Approximately 1.5 pounds of nitrogen per cubic yard of back

fill is recommended for bare root plants, and 2.5 pounds of nitrogen per cubic yard of back fill for balled and burlaped trees.

- (g) The back fill should be gently tamped (but not compacted) and soaked for settling. The soil should be slightly mounded to allow for settling; a ridge or dike around the perimeter of the hole can facilitate watering.
- (h) Pruning. The amount of pruning necessary for newly planted trees depends upon the trees' response to planting. A decrease in leaf surface area from pruning can result in a reduction of the production of food, thus ultimately inhibiting root development. Pruning for vigor or to train young trees should therefore be delayed until after the first growing season.
- (i) Staking should be used on newly planted trees only where determined necessary. The extent of staking will depend upon tree strength, form and condition at planting, expected wind conditions, the amount of vehicle or foot traffic and the level of follow-up maintenance. Staking can cause tree damage. Periodic follow-up inspections are required to prevent serious treestaking problems. Staking should be removed as soon as the tree is capable of providing its own anchorage and support.
- (j) Mulching newly planted trees will reduce competition from weeds and moderate soil moisture and temperature extremes.
- (k) Trees selected for planting must be free from injury, pests, disease or nutritional disorders.
- (l) Trees selected for planting must be free of root defects.

LANDSCAPE MAINTENANCE AND LANDSCAPE BOND

The owner, occupant, tenant and respective agent of each, if any, shall be jointly and severally responsible for the maintenance and protection of all landscaping required to be installed pursuant to this Code. Prior to issuance of a certificate of occupancy, the developer or owner shall post a performance bond or cash escrow guaranteeing all landscaping materials and work for a period of two (2) years after approval or acceptance thereof by the city in a sum established by the Arborist. The bond will be in the amount of 100 percent of the estimated cost of replacing all of the landscaping required by these specifications, unless otherwise specified by the Arborist. At the end of two years, the Arborist shall make an inspection and notify the owner or developer and the bond company of any corrections to be made. If no maintenance is required, or if maintenance is provided by said responsible party, the Arborist shall release the bond.

LISTS OF APPROVED LANDSCAPING MATERIALS

[See appendices]

Automobile service stations.

- (a) All automobile service stations shall conform to the following requirements:

- (1) All pumps shall be setback at least 15 feet from the right-of-way line, or where a future widening setback line has been established, this setback shall be measured from such line. Pumps shall be setback at least 15 feet from any property line;
- (2) The number of curb breaks shall not exceed two for each 100 feet of street frontage, each having a width of not more than 30 feet or less than 25 feet and located not closer than 15 feet to a street intersection. Two or more curb breaks on the same street shall be separated by an area of not less than ten feet; and
- (3) When the station abuts a residential district, it shall be separated therefrom by a solid wall or planting buffer at least six feet high.

- (b) No storage tank shall be placed aboveground.

Satellite receiving dish antenna.

(a) Satellite receiving dish antenna shall be allowed in all zoning districts and shall not exceed 36 inches in diameter.

(b) The setback requirements from the property line will be the same as those required of an accessory building.

(c) In all zoning districts, antenna will be so placed as not to create a hazard to traffic or public utilities.

(d) A property owner who has in place a nonconforming antenna at the effective date of the ordinance from which this chapter is derived may continue to maintain the antenna.

(e) All satellite dishes that are more than 24 inches in diameter shall be screened by some form of visual barrier including, but not limited to, hedges shrubbery, wood fences and similar such barriers or screens.

(f) Any equipment mounted on the ground shall be located away from adjacent side yards and any equipment mounted on a roof shall be placed in the rear portion of the building roof so that they are not visible from any street, to the extent that this is feasible and does not interfere with the equipment's reception capabilities.

Swimming Pools.

All swimming pools shall comply with the following requirements:

A. Site plan. For pools meeting the definition set forth above, a site plan shall be submitted to the city manager or his designee indicating the location of the pool and all yard setbacks.

1. A swimming pool shall not be constructed within the required front yard of any lot.
2. A swimming pool shall not be located closer than ten feet to the rear lot line or to an interior side lot line.

B. Construction plan. For pools meeting the definition set forth above, a construction plan shall be submitted to the city manager or his designee including the structural design of said pool or any accessory buildings.

1. Accessory buildings and/or pool houses shall comply with all of the requirements given for "accessory buildings" included in this ordinance.

C. Fencing. All swimming pools meeting the definition above shall be enclosed by a fence and maintained in good condition with a self-closing gate and lock.

1. Fencing shall be five feet in height.
2. Fencing shall be located in such a manner that it does not obstruct visibility at road intersections.
3. Fencing shall comply with all the requirements that pertain to visibility in this code.

D. The City herein adopts the SBCCI Standard Swimming Pool Code, 1994 Edition with Georgia Amendments and appendix as its standard for swimming pool regulation within the city. If there are any conflicts or discrepancies between the provisions of this Code and the Georgia Swimming Code, the more restrictive of the two shall apply within the city.

Compatibility standards for homes.

Manufactured homes, site built, modular and other housing qualifying as a single-family dwelling shall meet the following compatibility standards to protect and preserve the characteristics of housing within any zoning district:

- (1) The minimum width of the structure built or installed on the site shall be 30 feet in all residential districts,

except for the R-4 districts, which will permit a width of 16 feet or greater.

- (2) All single-family residential dwellings shall have a minimum heated and cooled floor area of 1,200 square feet. Only multifamily dwellings (such as apartments and condominiums), and planned unit developments may be approved for less habitable floor area.
- (3) The roof shall have a minimum 5:12 roof pitch and shall have a surface of asphalt composition, fiberglass or metal tiles, slate, materials or other materials approved by the planning commission. Corrugated metals or plastic panels are prohibited. **Standing seam metal roofs are authorized.**
- (4) The exterior siding materials shall consist of brick, wood, masonry, stucco, masonite, metal or vinyl lap designed for such purposes or other materials of like appearance approved by the planning commission.
- (5) Be attached to a permanent foundation. A permanent foundation shall mean a concrete slab, concrete footers, foundation wall pilings or post construction which complies with the state minimum standard codes, as amended from time to time or the International Building Code (IBC).
- (6) Be constructed according to standards established either by the State Minimum Standard Codes, as amended from time to time, or the International Building Code (IBC).
- (7) The planning commission may approve deviations from one or more of the developmental or architectural standards provided herein on the basis of a finding that the materials to be utilized or the architectural style proposed for the dwelling shall be compatible and harmonious with existing structures in the vicinity.

Architectural and design standards.

(a) *Intent; purpose.* The intent of these standards is to enhance the visual appeal of the community as a whole, as well as the commercial appeal of individual establishments. The mission or intent of this requirement thereof is to adopt design standards which, over time, will establish a streetscape image that makes the city unique to other surrounding jurisdictions, establishes a unifying theme, presents the traveling public with a sense of arrival, is harmonious with its surroundings, is aesthetically pleasing and enhances the character of the community. As such, the following goals, at a minimum, are established:

- (1) To encourage the rehabilitation/redevelopment of commercial areas;
- (2) To encourage the use of "village concepts" whenever and wherever possible;
- (3) To facilitate and encourage safe, attractive and convenient pedestrian circulation within a development, along a corridor and throughout the community;
- (4) To promote and encourage new development to be compatible in both scale and character with adjacent areas;
- (5) To use landscaping techniques to soften the effect and blend each development with the surrounding area (see requirements for buffer areas and landscaping requirements herein);
- (6) To promote the development of areas where people can live, work, play and shop without totally depending on the automobile;
- (7) To further energy conservation through better design; and

(8) To ensure that quality development throughout the city is obtained.

(b) *New construction and building renovations.* All new construction and renovation of buildings with any commercial, industrial or planned development zoning districts shall have the following:

(1) *Architectural treatment.* Buildings shall incorporate alcoves, arcades, awnings, covered walkways, porticoes, or roofs that protect pedestrians from the rain and sun. In addition, when appropriate, buildings shall incorporate changes in mass, surface, lighting or finish to give emphasis to entranceways (see graphics on file in city hall).

(2) *Blank walls.* Blank walls greater than 100 feet in length that can be seen from any street, public or private, are prohibited. Walls shall have offsets, jogs, or other distinctive changes in the building facade. Up to 40 percent of the length of the perimeter may be exempt from this standard if oriented toward a loading or service area.

(3) *Building material.* All exterior wall surfaces shall be constructed of brick, stone, approved exterior wood, stucco over stone or masonry or other approved material with and by the consent of the city. Building materials. All exterior wall surfaces shall be constructed of materials in accordance with the City of Cedartown's acceptable list of building materials which shall be attached to the zoning code as appendix "___". The approved list of building materials shall be reviewed, updated and published at least annually.

(4) *Pitched roofs.* All freestanding buildings shall have pitched roofs, and the use of dormers and gables are encouraged. Pitched roofs shall have a minimum pitch of 4:12 (see "roof pitch" illustration on file at city hall). Examples of acceptable roof types (see illustrations on file at city hall) are gable, gambrel, hip, mansard and shed. Roof Pitch. (see "roof pitch" illustrations on file at city hall).

(5) *Setbacks and windows.* Buildings located within 50 feet of the property line adjacent to the front yard, shall have at least 25 percent of the wall facing the street in window or door areas.

(6) *Open space.* At least 20 percent of each site shall remain natural, unless it is part of a planned development, in which case the overall PD plan shall provide a minimum of 20 percent open space overall. Trails, bikeways and other passive recreation activities shall be allowed within the 20 percent. Active recreational activities such as ballfields, tennis courts, swimming pools, or cleared fields shall not be counted toward the 20 percent requirement. Open space shall be determined at the time of development and in general shall be those lands reserved from any clearing, grubbing or grading activity. Open space may be enhanced with the planting of trees, shrubs and ground cover with the approval of the city. Said enhancements shall only be considered upon submittal of a landscape plan illustrating both existing and proposed vegetation.

(7) *Parking lot lighting.* Any lighting fixture shall be a cutoff type luminary, the source of which is completely concealed with an opaque housing. Fixtures shall be recessed in the opaque housing. Drop dish refractors are prohibited. The wattage shall not exceed 420 watts/480V per light fixture. This provision includes lights mounted on poles as well as architectural display and decorative lighting visible from the street or highway. Only the following types of lights may be used:

a. Incandescent;

b. Fluorescent;

c. Metal halide;

d. Mercury vapor;

e. Natural gas; or

f. Color corrected high pressure sodium (CRI of 60 or better).

Fixtures must be mounted in such a manner that the cone of the light is not directed past any adjacent property line. The minimum mounting height for a pole is 12 feet. The maximum mounting height for a pole is 25 feet excluding a three-foot base.

ARTICLE ____
DIVISION __.

R-E SINGLE-FAMILY ESTATE RESIDENTIAL DISTRICT

Scope and intent.

Regulations set forth in this division are applicable to the R-E single-family estate residential districts. The R-E estate district encompasses lands devoted to low-density residential areas for estate development.

Compliance.

Within the R-E district, land and structures shall be used in accordance with standards of this division.

Permitted uses.

Structures and land may be used for only the following purposes:

- (1) Single-family detached dwellings.
- (2) Accessory buildings or uses.
- (3) Guesthouse.
- (4) Swimming pool (private).

Conditional uses.

Structures and land may be used under specific conditions for only the following purposes:

- (1) Golf courses.
- (2) Swimming pools (public).
- (3) Tennis or country clubs.
- (4) Public and private community clubs or associations.
- (5) Athletic fields.

(6) Parks and recreation areas.

Setback and Regulations.

Minimum lot area (sq.ft)		2 acres
Minimum lot dimensions		
	Width	125 feet, or 75 feet at the front setback for cul-de-sac lots.
	Depth	None
Minimum Yards		
	Front Setback from Street Right of Way or property line	100 feet
	Side	25 feet
	Rear	35 feet
Maximum Building Height		
	Feet	35 ft
Minimum Heated Floor Area		
		2,000 sq. ft.

DIVISION ____.

R-1 SINGLE-FAMILY RESIDENTIAL DISTRICT

Scope and intent.

Regulations set forth in this division are applicable to the R-1 single-family residential districts. The R-1 district encompasses lands devoted to low-density residential areas.

Compliance.

Within the R-1 district, land and structures shall be used in accordance with standards of this division.

Permitted uses.

Structures and land may be used for only the following purposes:

- (1) Single-family detached dwellings.
- (2) Accessory buildings or uses.
- (3) Guesthouse.

- (4) Swimming pool (private).

Conditional uses.

Structures and land may be used under specific conditions for only the following purposes provided that no building for such proposed use is located within 100 feet of any property line:

- (1) Golf courses.
- (2) Swimming pools (public).
- (3) Tennis or country clubs.
- (4) Public and private community clubs or associations.
- (5) Athletic fields.
- (6) Parks and recreation areas.
- (7) Churches, synagogues and similar places of worship and their customary related uses
- (8) Electric, power yards, substation
- (9) Utility substation
- (10) Other public land uses owned and operated by municipal, county, state or federal governments, including schools teaching general education courses, parks, playgrounds and swimming pools, after review and recommendation by the planning commission and upon approval of the city commission.

Setback and Regulations.

Minimum lot area (sq.ft)		29, 040 sq. ft or 2/3 acre
Minimum lot dimensions		
	Width	150 ft
	Depth	None
Minimum Yards		
	Front Setback from Street Right of Way or property line	60 ft
	Side	25 ft
	Rear	35 ft
Maximum Building Height		
	Feet	35ft
Minimum Heated Floor Area		
		1,200 sq. ft

DIVISION ____.

R-2 RESIDENTIAL DISTRICT

Scope and intent.

R-2 residential districts are established to provide for low-medium density residential development.

Compliance.

Within the R-2 district, land and structures shall be used in accordance with standards of this division.

Permitted uses.

Structures and land may be used for only the following purposes:

- (1) Single-family detached dwellings.
- (2) Accessory buildings and uses.
- (3) Guesthouse
- (4) Swimming pools (private).

Conditional uses.

Structures and land may be used under specific conditions for only the following purposes, provided that no building for such proposed use is located within 100 feet of any property line:

- (1) Golf courses.
- (2) Swimming pools (public).
- (3) Tennis or country clubs.
- (4) Public and private community clubs or associations.
- (5) Athletic fields.
- (6) Parks and recreation areas.
- (7) Churches, synagogues and similar places of worship and their customary related uses

(8) Electric, power yards, substation

(9) Utility substation

(10) Other public land uses owned and operated by municipal, county, state or federal governments, including schools teaching general education courses, parks, playgrounds and swimming pools, after review and recommendation by the planning commission and upon approval of the city commission.

(11) Nursery schools and kindergartens, provided that they shall have at least 35 square feet of indoor space provided for each child and at least 100 square feet of play area per child in the outdoor play area; and that the outdoor play area shall be enclosed by a fence having a minimum height of six feet; and provided that the principal building of such use shall meet all the yard requirements of the R-2 residential district.

(12) Day care home

(13) Assisted living facility so long as no more than 5 residents are occupying the facility at any time.

(14) Public, parochial and private schools and colleges when located on a site of at least five acres and including covenants, monasteries, dormitories and other related living structures when located on the same site as the school or college.

(15) Boarding house

Setback and Regulations.

Minimum lot area (sq.ft)		
Minimum lot dimensions		
	Width	150 ft (or 35ft at front set back of culdesac lots)
	Depth	None
Minimum Yards		
	Front Setback from Street Right of Way or property line	60 ft
	Side	15 ft
	Rear	35 ft
Maximum Building Height		
	Feet	40ft
Minimum Heated Floor Area		
		1,200 sq. ft

DIVISION ____.

R-3 RESIDENTIAL DISTRICT

Scope and intent.

Regulations set forth in this section are the R-3 residential district regulations. The R-3 district encompasses lands

devoted to medium-density residential districts.

Compliance.

Within the R-3 single-family residential district, land and structures shall be used in accordance with standards of this division.

Permitted uses.

Structures and land may be used for only the following purposes:

- (1) Single-family detached dwellings.
- (2) Two Family dwellings
- (3) Accessory buildings and uses.
- (4) Guesthouse
- (5) Swimming pools (private).

Conditional uses.

Structures and land may be used under specific conditions for only the following purposes, provided that no building for such proposed use is located within 100 feet of any property line:

- (1) Golf courses.
- (2) Swimming pools (public).
- (3) Tennis or country clubs.
- (4) Public and private community clubs or associations.
- (5) Athletic fields.
- (6) Parks and recreation areas.
- (7) Home occupations.
- (8) Churches, synagogues and similar places of worship and their customary related uses
- (9) Electric, power yards, substation
- (10) Utility substation
- (11) Other public land uses owned and operated by municipal, county, state or federal governments, including schools teaching general education courses, parks, playgrounds and swimming pools, after review and recommendation by the planning commission and upon approval of the city commission.
- (12) Nursery schools and kindergartens, provided that they shall have at least 35 square feet of indoor space provided for each child and at least 100 square feet of play area per child in the outdoor play area; and that the

outdoor play area shall be enclosed by a fence having a minimum height of six feet; and provided that the principal building of such use shall meet all the yard requirements of the R-2 residential district.

(13) Day care home

(14) Bed and Breakfast

(15) Rooming and boarding houses, tourist homes, convalescent or nursing homes, group personal care homes; assisted living facilities

(16) Retirement centers

(17) Public, parochial and private schools and colleges when located on a site of at least five acres and including covenants, monasteries, dormitories and other related living structures when located on the same site as the school or college.

Setback and Regulations.

Minimum lot area (sq.ft)		One family – ½ acre Two family - 1/3 acre
Minimum lot dimensions		
	Width	60 ft or 35ft at front setback cul de sac lots)
	Depth	None
Minimum Yards		
	Front Setback from Street Right of Way or property line	40 feet
	Side	10 feet
	Rear	25 feet
Maximum Building Height		
	Feet	40ft
Minimum Heated Floor Area		
		One – Bedroom 600 sq. ft Two-Bedroom 750 sq. ft
Minimum Distance Between buildings		Front to Front: 50 feet Front or rear to side: 50 feet Side to Side: 20 feet

DIVISION ____.

R-4 RESIDENTIAL DISTRICTS

Scope and intent.

Regulations set forth in this section are the R-4 district regulations. The R-4 district encompasses lands devoted to medium to high-density residential areas.

Permitted uses.

Structures and land may be used for only the following purposes:

- (1) Single-family detached dwellings.
- (2) Two Family dwellings
- (4) Multi family dwellings
- (5) Accessory buildings and uses.
- (6) Guesthouse
- (7) Swimming pools (private).

Conditional uses.

Structures and land may be used under specific conditions for only the following purposes, provided that no building for such proposed use is located within 100 feet of any property line:

- (1) Bed and breakfast.
- (2) Golf courses.
- (3) Swimming (public).
- (4) Tennis or country clubs.
- (5) Public and private community clubs or associations.
- (6) Athletic fields, parks, and recreation areas.
- (7) Home occupations.
- (8) Churches, synagogues and similar places of worship and their customary related uses
- (9) Electric, power yards, substation
- (10) Utility substation
- (11) Other public land uses owned and operated by municipal, county, state or federal governments, including schools teaching general education courses, parks, playgrounds and swimming pools, after review and recommendation by the planning commission and upon approval of the city commission.

(12) Nursery schools and kindergartens, provided that they shall have at least 35 square feet of indoor space provided for each child and at least 100 square feet of play area per child in the outdoor play area; and that the outdoor play area shall be enclosed by a fence having a minimum height of six feet; and provided that the principal building of such use shall meet all the yard requirements of the R-2 residential district.

(13) Day care home

(14) Rooming and boarding houses, tourist homes, convalescent or nursing homes, group personal care homes, assisted living facilities.

(15) Retirement centers

(16) Public, parochial and private schools and colleges when located on a site of at least five acres and including covenants, monasteries, dormitories and other related living structures when located on the same site as the school or college.

(17) Mobile home park

Setback and Regulations.

Minimum lot area (sq.ft)		One family – ½ acre Two family – 1/3 acre Multi family 5,000 square feet per unit Mobile home park – 5 acres, 3,000 square feet per mobile home space
Minimum lot dimensions		
	Width	75 feet (or 35 at front setback cul de sac lots)
	Depth	None
Minimum Yards		
	Front Setback from Street Right of Way or property line	30 feet
	Side	10 feet
	Rear	20 feet
Maximum Building Height		
	Feet	40ft
Minimum Heated Floor Area		

		One – Bedroom 600 sq. ft Two-Bedroom 750 sq. ft Three-Bedroom 900 sq. ft.
Minimum Distance Between buildings		Front to Front: 50 feet Front or rear to side: 50 feet Side to Side: 20 feet

DIVISION _____

C-1 CENTRAL BUSINESS DISTRICT

Intent.

The purpose of this district is to preserve the downtown commercial district and provide locations for shopping facilities that are commonly found in the retail commercial uses of the historic downtown orientation. The CBD (central business district) would also provide for loft-style living and other residential concepts associated with a downtown city. Such facilities should be located to allow for minimal lot line requirements, but not to forsake the public safety and general welfare. In addition, the frequency and distribution patterns reflect the downtown orientation, without jeopardizing the historic significance of the central business district.

Required conditions.

Retail sales, displays of merchandise, and storage must be within an appropriate enclosure (building, or structure) as specified by law or ordinance. However, the commission may grant an exception to this requirement as a conditional use where it finds that enforcement would create an unreasonable hardship. No single business activity shall occupy more than 40,000 square feet of building area. Specified residential uses will be permitted in the C-1 district as conditional uses after review and recommendation by the planning commission and a formal approval by the city commission set forth in this code. This mixed-use environment will help preserve the historic character of the downtown area and allow for a greater degree of flexibility in dealing with existing properties.

Permitted uses.

The following uses are permitted:

- (1) Appliance stores, including repairs and services, but not appliance salvage and/or storage yards.
- (2) Art and antique stores, art galleries, museums and institutions of a similar nature.
- (3) Bakeries--retail.
- (4) Health clubs, spas, and other similar activities.
- (5) Bicycle stores.

- (6) Book, stationery, camera, photographic supply stores, and newsstands.
- (7) Confectionery stores.
- (8) Clothing and shoes, millinery, dry goods and notion stores.
- (9) Ice cream parlors.
- (10) Drugstores.
- (11) Furniture and home furnishings stores.
- (12) Florist, nurseries, and gift shops.
- (13) Grocery, fruit, vegetable, meat markets, delicatessens, catering stores, and supermarkets.
- (14) Hardware and paint stores (no outside uncovered unfenced storage areas).
- (15) Jewelry stores.
- (16) Barbershops and beauty shops.
- (17) Dressmaking and tailoring shops.
- (18) Laundry and dry cleaning pickup stations.
- (19) Retail and repair shoe shops.
- (20) Garden supply stores (no outside uncovered unfenced storage areas).
- (21) Any other retail sales or service establishments similar in character to those permitted; however fortuneteller, psychics, junkyards or auto wrecking establishments or any other business where the materials sold are not housed within a building are prohibited.
- (22) Professional, and business office, that include banks and financial institutions.
- (23) Accessory buildings and uses located on the same lot or parcel of land as the main structure and customarily incidental to the permitted or conditional use.
- (24) Cafes, grills, lunchcounters, and restaurants.
- (25) Motels and hotels;
- (26) Offices and display rooms for wholesaling establishments, provided no warehousing facilities are located on the premises.
- (27) Newspaper offices and printing establishments incidental to such offices
- (28) Public buildings and structures
- (29) Automobile sales

- (30) Banks and other financial institutions
- (31) Parking lots

Conditional uses.

Structures and land may be used under specific conditions for only the following purposes:

- (1) Gas Stations and Automobile service stations, but not including repair garages and salvage yards. Provided that all structures and buildings, except principal use signs, and including service tanks shall be placed not less than 25 feet from any side or rear property line, except where such side or rear property lines abut a street, in which case the setback shall be that required for such streets measured from the right-of-way. All buildings or structures, including gasoline pumps and storage tanks, except principal use signs, shall comply with the setback requirements of any abutting street. If the automobile service station is located on a corner lot, the means of ingress and egress provided shall be not less than 15 feet from the intersection of street right-of-way lines. Ingress and egress shall be arranged and designed so as to minimize the interference with the flow of traffic, either vehicular or pedestrian.
- (2) Auction houses.
- (3) Print shops
- (4) Theaters and cinemas, but not including drive-in theaters.
- (5) Churches and other places of worship, attendant educational and recreational buildings, and their appurtenant accessory uses (e.g., cemeteries, mausoleums, etc.).
- (6) Kindergartens, day care centers and homes, and nursery or play schools.
- (7) Golf, swimming, tennis, or country clubs, public and private community clubs or associations, athletic fields, parks and recreational areas. The size and intensity of the proposed use as it relates to adjacent land uses shall be a determining factor.
- (8) Private clubs, and fraternal order of lodges.
- (9) Variety retail shops.
- (10) Hospitals, clinics, and convalescent or nursing homes.
- (11) Temporary uses, including sale of Christmas trees, carnivals, church bazaars, and sale of seasonal fruits and vegetables from roadside stands, but such use is not to be permitted for a period to exceed two months in any calendar year.
- (12) Dry cleaning and laundry establishments, provided that such operation is for local service only and no work is done on the premises for other similar establishments or pickup stations.
- (13) Colleges, public and private schools, and libraries.
- (14) Recreational, amusement, and entertainment facilities.

(15) Funeral homes, not including crematoriums.

(16) Self-serve car washing facilities, provided they are located on an arterial street.

(17) Bed and breakfast inns, provided all parking can be maintained on the lot and not along connector and secondary streets.

(18) Residential development shall be permitted only on the second floor of existing buildings, and any buildings hereafter constructed, in the central business district as described herein.

a. Type of residential development:

1. Single-family units.
2. Two-family units.
3. Multifamily units.

b. Parking: In the central business district, no off-street parking shall be required for three or fewer dwelling units on a property. For more than three dwelling units, off-street parking shall be provided for the property at the rate of 1.25 spaces per dwelling unit (rounded up to the nearest whole number of spaces). For parking regulation effecting all other uses, see the parking regulations in section 94-116.

c. Square footage requirements: Each residential dwelling unit shall contain a minimum of 400 square feet per occupant. One – Bedroom 600 sq. ft; Two-Bedroom 750 sq. ft; Three-Bedroom 900 sq. ft.

(19) Taxicab businesses.

(16) Parking garages (automobile)

(17) Pet grooming

(18) Loft style dwellings provide they are located on the second level of a building

(19) Bus, railroad, and air terminal facilities.

(20) Public, parochial and private schools and colleges when located on a site of at least five acres and including covenants, monasteries, dormitories and other related living structures when located on the same site as the school or college.

Intinerant Vending

No intinerant vendors shall be allowed in the central business district. Itinerant vendors are defined herein to include any person, whether a resident of the city or not, who has no permanent place of business within the city and who engages in a transient business in one temporary fixed place of business or sells goods from a vehicle, truck, van, trailer or other type of conveyance.

C-1 limited location malt beverage and wine pouring license.

In addition to the uses authorized in section 94-116, restaurant businesses within the area defined in section 2-96 of article III, chapter 2, division 3 of this Code (the boundary definitions of the downtown development area of the city) as presently enacted, or hereinafter amended, shall be authorized to obtain from the city a license for the privilege of selling malt beverages and/or wine by the drink for consumption on the premises. This license shall be limited to eating

establishments within the downtown central business district, and governed by the specific requirements of chapter VI of this Code regarding alcoholic beverages.

Setback and Regulations.

Minimum lot area (sq.ft)		None
Minimum lot dimensions		
	Width	None
	Depth	None
Minimum Yards		
	Front Setback from Street Right of Way or property line	None
	Side	15 ft
	Rear	12 feet if not abutting an alley, and 20 ft if abutting a residential district
Maximum Building Height		
	Feet	50ft
Minimum Heated Floor Area		
		None

DIVISION __.

C-2 GENERAL COMMERCIAL DISTRICT

Intent.

The C-2 general commercial district is intended to promote general commercial activities in appropriate and concentrated locations along major streets and the existing city center.

Required conditions.

(a) Retail sales, displays of merchandise, and storage must be within an appropriate enclosure (building or structure) as specified in the city's standard building and housing codes. However, the commission may grant an exception to this requirement as a conditional use where it finds that enforcement would create an unreasonable hardship.

(b) Specified conditional uses will be permitted in the C-2 district after review and recommendation by the planning commission and a formal approval by the city commission. This mixed-use environment will help preserve the historic character of the city and allow for a greater degree of flexibility in dealing with existing properties.

Permitted uses.

Structures and land may be used for only the following purposes:

The following uses are permitted:

- (1) Appliance stores, including repairs and services, but not appliance salvage and/or storage yards.
- (2) Art and antique stores, art galleries, museums and institutions of a similar nature.
- (3) Bakeries--retail.
- (4) Health clubs, spas, and other similar activities.
- (5) Bicycle stores.
- (6) Book, stationery, camera, photographic supply stores, and newsstands.
- (7) Confectionery stores.
- (8) Clothing and shoes, millinery, dry goods and notion stores.
- (9) Ice cream parlors.
- (10) Drugstores.
- (11) Furniture and home furnishings stores.
- (12) Florist, nurseries, and gift shops.
- (13) Grocery, fruit, vegetable, meat markets, delicatessens, catering stores, and supermarkets.
- (14) Hardware and paint stores (no outside uncovered unfenced storage areas).
- (15) Jewelry stores.
- (16) Barbershops and beauty shops.
- (17) Dressmaking and tailoring shops.
- (18) Laundry and dry cleaning pickup stations, and self-service laundries.
- (19) Retail and repair shoe shops.
- (20) Garden supply stores (no outside uncovered unfenced storage areas).
- (21) Any other retail sales or service establishments similar in character to those permitted; however fortuneteller, psychics, junkyards or auto wrecking establishments or any other business where the materials sold are not housed within a building are prohibited.
- (22) Professional, and business office, that include banks and financial institutions.
- (23) Accessory buildings and uses located on the same lot or parcel of land as the main structure and customarily incidental to the permitted or conditional use.
- (32) Cafes, grills, lunchcounters, and restaurants.

- (33) Motels and hotels;
- (34) Offices and display rooms for wholesaling establishments, provided no warehousing facilities are located on the premises.
- (35) Newspaper offices and printing establishments incidental to such offices
- (36) Local government buildings and structures
- (37) Automobile sales
- (38) Banks and other financial institutions
- (39) Parking lots
- (40) Other publishing or printing establishments
- (41) Bottling works for soft drinks.
- (42) Convalescent or nursing homes.
- (43) Bowling alleys and billiard rooms.
- (44) Telephone offices or communications centers.
- (45) Minor shopping centers. The following guidelines govern construction of shopping centers:
 - a. Shopping centers may exceed 40,000 square feet in gross floor area.
 - b. Shopping centers shall be located along arterial, collector or secondary streets.
 - c. Required green space and open space buffers, as required by this code.

Conditional uses.

Structures and land may be used under specific conditions for only the following purposes:

- (1) Garage, mechanical
- (2) Drive-in theaters.
- (3) Public utility structure and buildings, including electric and natural gas substations, telephone exchanges, communication towers, radio and television stations and similar structures for the storage of supplies, equipment, or service operations, when properly screened.
- (4) Churches and other places of worship with attendant educational and recreational buildings and their appurtenant accessory uses (i.e., cemeteries, mausoleums, etc.).
- (5) Colleges, private and public schools, and libraries.

- (6) Kindergartens, day care centers and homes, and nursery or play schools.
- (7) Hospitals and clinics
- (8) Bus, railroad, and air terminal facilities.
- (9) Drive-in restaurants.
- (10) Automobile laundries or carwashes.
- (11) Places of assembly, including auditoriums, stadiums, coliseums, dancehalls and nightclubs.
- (12) Other private/public clubs or lodges
- (13) Produce and farmer's markets.
- (14) Wholesale warehouses.
- (15) Garages, tire retreading and recapping establishments, provided that no buildings for such uses are located within 100 feet of a residential district.
- (16) Veterinary hospitals or clinics, pet grooming and boarding houses or kennels provided any structure used for such purpose shall be a minimum of 100 feet from any residential district, and provided further that such uses shall not adversely affect adjacent uses.
- (17) Recreational, amusement, or entertainment facilities.
- (18) Trade shops, including sheet metal, roofing, upholstering, electrical, plumbing, Venetian blind, cabinetmaking and carpentry, rug and carpet cleaning and sign painting shops, provided that all operations are conducted entirely within a building and are not within 100 feet of any residential district.
- (19) Trade or business schools.
- (20) Group personal care homes and supportive living homes.
- (21) Automobile service stations and gas stations.
- (22) Miniwarehouses, subject to the following conditions:
 - a. The warehouse is limited to storage, and to provide one warehouse office only; this office shall be used for the daily operation of the miniwarehouse.
 - b. All storage shall be within the building area.
 - c. No commercial sales or uses shall be conducted on the site. Any auctions are limited to the sales of contents, and there shall be no more than nine per year.
 - d. A fencing and landscaping plan shall be approved by the commission.
- (23) Auction houses.

(24) Bed and breakfast inns, provided that all parking can be maintained on the lot and not along collector or secondary streets.

(25) Major shopping centers. The following guidelines govern construction of shopping centers:

a. Shopping centers may exceed 60,000 square feet in gross floor area.

b. Leading tenants shall not exceed 40,000 square feet in gross floor area.

c. Shopping centers shall be located along arterial, collector, or secondary streets.

d. Required green space and open space barriers shall be as required by this code.

(21) Taxicab businesses.

(22) Radio and television broadcasting studios subject to the provisions in this code for telecommunication antennas and towers.

(23) Itinerant vendors and lunch wagons

Setback and Regulations.

Minimum lot area (sq.ft)		None
Minimum lot dimensions		
	Width	None
	Depth	None
Minimum Yards		
	Front Setback from Street Right of Way or property line	Front yard: 35 feet ;
	Side	Side yard: 20 feet.
	Rear	Rear yard: 20 feet
Maximum Building Height		
	Feet	50ft
Minimum Heated Floor Area		
		None

DIVISION__ .

CN- NEIGHBORHOOD COMMERCIAL DISTRICT

Intent.

The purpose of this district is to provide locations for neighborhood shopping facilities in which are found retail commercial uses which have a neighborhood orientation and which supply necessities usually requiring frequent purchasing with a minimum of consumer travel. Such facilities should be located so that their frequency and distribution

patterns reflect their neighborhood orientation. In addition, such facilities should not be so large or so broad in scope of services as to attract substantial amounts of trade from outside the neighborhood commercial zone and should not be located in close proximity to other commercial areas.

Required conditions.

(a) Retail sales, displays of merchandise, and storage must be within an appropriate enclosure (building or structure) as specified in the city's standard building and housing codes. However, the commission may grant an exception to this requirement as a conditional use where it finds that enforcement would create an unreasonable hardship. No single business activity shall occupy more than 40,000 square feet of building area.

(b) Specified conditional uses will be permitted within the CN district after review and recommendation by the planning commission and a formal approval by the city commission. This mixed-use environment will help preserve the historic character of any existing neighborhoods and allow for a greater degree of flexibility in dealing with existing properties.

Permitted uses.

Structures and land may be used for only the following purposes:

- (1) Appliance stores, including repairs and services, but not appliance salvage and/or storage yards.
- (2) Art and antique stores, art galleries, museums and institutions of a similar nature.
- (3) Bakeries--retail.
- (4) Health clubs, spas, and other similar activities.
- (5) Bicycle stores.
- (6) Book, stationery, camera, photographic supply stores, and newsstands.
- (7) Confectionery stores.
- (8) Clothing and shoes, millinery, dry goods and notion stores.
- (9) Ice cream parlors.
- (10) Drugstores.
- (11) Furniture and home furnishings stores.
- (12) Florist, nurseries, and gift shops.
- (13) Grocery, fruit, vegetable, meat markets, delicatessens, catering stores, and supermarkets.
- (14) Hardware and paint stores (no outside uncovered unfenced storage areas).
- (15) Jewelry stores.
- (16) Barbershops and beauty shops.

(17) Dressmaking and tailoring shops.

(18) Laundry and dry cleaning pickup stations, and self-service laundries.

(19) Retail and repair shoe shops.

(20) Garden supply stores (no outside uncovered unfenced storage areas).

(21) Any other retail sales or service establishments similar in character to those permitted; however fortuneteller, psychics, junkyards or auto wrecking establishments or any other business where the materials sold are not housed within a building are prohibited.

(22) Professional, and business office, that include banks and financial institutions.

(23) Accessory buildings and uses located on the same lot or parcel of land as the main structure and customarily incidental to the permitted or conditional use.

(46) Cafes, grills, lunchcounters, and restaurants.

(47) Motels and hotels;

(48) Offices and display rooms for wholesaling establishments, provided no warehousing facilities are located on the premises.

(49) Newspaper offices and printing establishments incidental to such offices

(50) Public buildings and structures

(51) Automobile sales

(52) Banks and other financial institutions

(53) Parking lots

(54) Within the C-N neighborhood commercial district, every use shall be so constructed, maintained and operated as not to be injurious or offensive to occupants of adjacent premises by reason of the emission or creation of noise, smoke, vibration, dust, electrical disturbance, toxic or noxious waste material, odor, fire and explosive hazard, glare or traffic generation.

Conditional uses.

Structures and land may be used under specific conditions for only the following purposes:

(1) Public utility structures and buildings, including electric and natural gas substations, telephone exchanges, and similar structures for the storage of supplies, equipment, or service operations, when properly screened.

- (2) Veterinary hospitals and clinics, pet shops, grooming or boarding houses, provided that any structure or outside area used for such purposes shall be a minimum of 100 feet from any residential district.

Minor shopping centers. The following guidelines govern construction of shopping centers:

- a. Shopping centers may exceed 40,000 square feet in gross floor area.
 - b. Shopping centers shall be located along arterial, collector or secondary streets.
 - c. Required green space and open space buffers, as required by this code or the Commission.
 - d. Required green space and open space buffers, as required by this code or the Commission.
- (4) Group personal care homes and supportive living homes.
 - (5) Motels, hotels and bed and breakfast facilities, provided that the number of rooms available for occupancy does not exceed 50.
 - (6) Fast food restaurants.
 - (7) Taxicab businesses..
 - (8) Theaters, but not including drive-in theaters.
 - (9) Professional, and business office, that include banks and financial institutions
 - (10) Publicly-owned and operated buildings and lands.
 - (11) Automobile service stations and gas stations, provided that all structures and buildings, except principal use signs, and including storage tanks, shall be placed not less than 25 feet from any side or rear property line except where such side or rear property lines abut a street, in which case the setback shall be that required for such streets measured from the right-of-way. All buildings or structures, including gasoline pumps and storage tanks, except principal use signs, shall comply with the setback requirements of any abutting street. If the automobile service station is located on a corner lot, the means of ingress and egress provided shall be not less than 15 feet from the intersection of street right-of-way lines. Ingress and egress shall be arranged and designed so as to minimize the interference with the flow of traffic, either vehicular or pedestrian. Buffer zones shall be utilized between any automobile service station and neighboring residential property in accordance with this code.
 - (12) Efficiency apartments.
 - (13) Single-family dwellings.
 - (14) Two-family dwellings.
 - (15) Multiple dwellings.
 - (16) Loft-style dwellings.

(17) Garage, mechanical

(18) Itinerant vendors and lunch wagons

Setback and Regulations.

Minimum lot area (sq.ft)		None
Minimum lot dimensions		
	Width	None
	Depth	None
Minimum Yards		
	Front Setback from Street Right of Way or property line	Front yard: 40 feet
	Side	Side yard: 15 feet if any side yard is provided, and 20 feet if abutting a residential district.
	Rear	Rear yard: 15 feet
Maximum Building Height		
	Feet	50ft
Minimum Heated Floor Area		
		None for commercial; for any residential development the requirements of the R-4 residential district shall apply.

DIVISION _____.

O-I OFFICE-INSTITUTIONAL DISTRICT

Intent.

The O-I office-institutional districts are intended to promote and preserve districts with lower density office activities, institutional, clinical, and professional types uses. This district also allows for a mix of certain compatible residential activities. The O-I district in many cases is a practical tool for providing transition from residential uses where it is elected not to use a buffer. The O-I development standards require adequate yard space and off-street parking and service facilities. Permitted uses are restricted to protect the character of the city and from encroachment of uses capable of adversely affecting the limited character of the district.

Required conditions.

Specialized retail sales, displays of merchandise, and storage must be within a completely enclosed building. Certain residential uses will be allowed in the O-I district as conditional uses; particular commercial uses will be permitted as conditional uses after review by the planning commission and city commission. This mixed-use environment

will help preserve the historic character and allow for a greater degree of flexibility in the use of transitional zones with other existing properties.

Permitted uses.

Structures and land may be used for only the following purposes:

- (1) Office buildings.
- (2) Colleges, private and public schools, and libraries.
- (3) Kindergartens, nursery or play schools, and day care centers and homes.
- (4) Trade or business schools.
- (5) Hospitals, clinics, or convalescent and nursing homes.
- (6) Veterinary hospitals or clinics, pet grooming or boarding houses, provided that any structure used for such purpose shall be a minimum of 100 feet from any residential district, and provided further that such use shall not adversely affect adjacent uses.
- (7) Convalescent and nursing homes.
- (8) Funeral homes, not including crematoriums.
- (9) Museums and institutions of a similar nature.
- (10) Churches and other places of worship with attendant educational and recreational buildings, and their appurtenant accessory uses (e.g., cemeteries, mausoleums, etc.).
- (11) Private clubs, fraternal orders, or lodges.
- (12) Real estate offices.
- (13) Bed and breakfast inns, provided that all parking can be maintained on the lot and not along collector or secondary streets.
- (14) Accessory buildings and uses located on the same lot or parcel of land as the main structure and customarily incidental to the permitted or conditional uses.

Conditional uses.

Structures and land may be used under specific conditions for only the following purposes:

- (1) Places of assembly, including auditoriums, stadiums, coliseums, convention centers, and visitor centers.
- (2) Golf, swimming, tennis, or country clubs, public and private community clubs or associations, athletic fields, parks and recreational areas. The size and intensity of the proposed use as it relates to adjacent land uses shall be a determinative factor.

- (3) Group personal care homes and supportive living homes.
- (4) Newspaper and magazine publishing establishments.
- (5) Radio and television broadcasting studios.
- (6) Telephone offices or communications centers.
- (7) Public utility structures and buildings, including electric and natural gas substations, telephone exchanges, communication towers, radio and television stations and similar structures for the storage of supplies, equipment, or service operations, when properly screened.
- (8) Recreational, amusement, or entertainment facilities.
- (9) Drive-in restaurants, diners, cafes, and "al fresco" style establishments.
- (10) Bakeries and delicatessens, retail in nature.
- (11) Shops and boutiques, not to exceed 2,000 square feet.
- (12) Dry cleaning and laundry establishments.
- (13) Auction houses.
- (14) Motels and hotels.
- (15) Roominghouses.
- (16) Efficiency apartments.
- (17) Single-family dwellings.
- (18) Two-family dwellings.
- (19) Multiple dwellings.
- (20) Loft-style dwellings.

Setback and Regulations.

Minimum lot area (sq.ft)		½ acre
Minimum lot dimensions		
	Width	None
	Depth	None
Minimum Yards		
	Front Setback from Street Right of Way or property line	Front yard: 35 feet

	Side	Side yard: 20 feet
	Rear	Rear yard: 20 feet
Maximum Building Height		
	Feet	35ft
Minimum Heated Floor Area		
		None
Lot Width	The lot width must front city, county, or federally maintained street, road, or highway and which has been legally recorded and maintained as such. The minimum width of such lot shall be Not less than 100 feet.	

DIVISION __.

I-1 LIGHT INDUSTRIAL DISTRICT

Intent.

The I-1 light industrial district is intended for wholesale and light industrial uses where resultant noise, odors, pollution, and congestion are almost nonexistent. Residential development is prohibited. This district is not suitable for heavy industrial uses.

Permitted uses.

Structures and land may be used for only the following purposes:

- (1) Office buildings.
- (2) Ice plants.
- (3) Public utility structures and buildings, including electric and natural gas substations, telephone exchanges, communication towers, radio and television stations, and similar structures for the storage of supplies, equipment or service operations.
- (4) Automobile and travel trailer sales (new and used).
- (5) Scientific and technology industries and parks.

- (6) Vehicle laundries or carwashes.
- (7) Drive-in restaurants.
- (8) Vehicle service stations, repair garages, or mechanic/body establishments.
- (9) Dry cleaning and laundry facilities.
- (10) Veterinary hospitals or clinics.
- (11) Recreation, amusement, and entertainment establishments.
- (12) Contractors' storage and equipment yards.
- (13) Building and lumber supply establishments.
- (14) Establishments for repair, assembly or processing and light manufacturing which is not objectionable by reason of smoke, dust, odor, bright lights, noise, or vibration.
- (15) Wholesale warehouses.
- (16) Clothing and fabric outlets to allow retail to coincide with the manufacturing.

Conditional uses.

Structures and land may be used under specific conditions for only the following purposes:

- (1) Churches and other places of worship with attendant educational and recreational buildings, and their appurtenant accessory uses (e.g., cemeteries, mausoleums, etc.).
- (2) Clinics.
- (3) Theaters, including drive-in theaters.
- (4) Bus, railroad and air terminals.
- (5) Places of assembly including auditoriums, stadiums, coliseums and dancehalls.
- (6) Produce and farmers' market.
- (7) Motels and hotels.
- (8) Truck terminals.
- (9) Auto auctions.
- (10) Trade shops including sheet metal, roofing, upholstering, electrical, plumbing, Venetian blinds, cabinetmaking and carpentry, rug and carpet cleaning, and sign painting, provided that all operations are conducted entirely within a building.

- (11) Frozen dessert and milk processing plants.
- (12) Milk bottling and distribution plants and ice cream manufacturing plants.
- (13) Vehicle repair garages, mechanical and body establishments.
- (14) Retail or service establishments dependent upon, or closely related to industrial use
- (15) Storage yards, including building materials and lumberyards, except junkyards or automobile-wrecking establishments, provided any such use is screened from view by a solid wall, planted screen or similar opaque partition at least six feet in height. Such partition shall comply with all setback requirements of this district.
- (16) Any other light industrial operations which do not cause injurious or obnoxious noise, vibrations, smoke, gas fumes, odor, dust, fire hazard or other objectionable conditions.
- (17) Automobile service stations, provided that all structures and buildings, except principal use signs, and including storage tanks, shall be placed not less than 25 feet from any side or rear property line, except where such side or rear property lines abut a street, in which case the setback shall be that required for such streets measured from the right-of-way. All buildings or structures, including gas pumps and storage tanks, except principal use signs, shall comply with the setback requirements of any abutting street. If located on a corner lot, the means of ingress and egress provided shall be not less than 15 feet from the intersection of the street right-of-way lines. Ingress and egress shall be arranged and designed so as to minimize the interference with the flow of traffic, either vehicular or pedestrian.
- (18) Itinerant vendors and lunch wagons

Setback and Regulations.

Minimum lot area (sq.ft)		½ acre
Minimum lot dimensions		
	Width	The lot width must front a city, county, state or federally maintained street, road, or highway and which has been legally recorded and maintained as such. The minimum width of such lot shall be no less than 125 feet.
	Depth	None
Minimum Yards		
	Front Setback from Street Right of Way or property line	Front yard: 50 feet
	Side	Side yard: 50 feet.
	Rear	Rear yard: 50 feet
Maximum Building Height		
	Feet	60ft

Minimum Heated Floor Area	
	None

DIVISION __.

I-2 GENERAL INDUSTRIAL DISTRICT

Intent.

The I-2 general industrial district is intended for wholesale and heavy industrial uses where resultant noise, odors, pollution, and congestion are minimized. Residential development is prohibited. This district is not suitable for heavy industrial use which collects, stores, or disposes of hazardous materials and its by-products.

Permitted uses.

Structures and land may be used for only the following purposes:

- (1) Office buildings.
- (2) Ice plants.
- (3) Public utility structures and buildings, including electric and natural gas substations, telephone exchanges, communication towers, radio and television stations, and similar structures for the storage of supplies, equipment or service operations.
- (4) Automobile and travel trailer sales (new and used).
- (5) Scientific and technology industries and parks.
- (6) Vehicle laundries or carwashes.
- (7) Drive-in restaurants.
- (8) Vehicle service stations, repair garages, or mechanic/body establishments.
- (9) Dry cleaning and laundry facilities.
- (10) Veterinary hospitals or clinics.
- (11) Recreation, amusement, and entertainment establishments.
- (12) Contractors' storage and equipment yards.
- (13) Building and lumber supply establishments.
- (14) Establishments for repair, assembly or processing and light manufacturing which is not objectionable by reason of smoke, dust, odor, bright lights, noise, or vibration.

(15) Wholesale warehouses.

(18) Clothing and fabric outlets to allow retail to coincide with the manufacturing.

Conditional uses.

Structures and land may be used under specific conditions for only the following purposes:

(1) Churches and other places of worship with attendant educational and recreational buildings, and their appurtenant accessory uses (e.g., cemeteries, mausoleums, etc.).

(2) Clinics.

(3) Theaters, including drive-in theaters.

(4) Bus, railroad and air terminals.

(5) Places of assembly including auditoriums, stadiums, coliseums and dancehalls.

(6) Produce and farmers' market.

(7) Truck terminals.

(8) Auto auctions.

(9) Development of natural resources, including the removal of minerals and other natural resources, together with necessary building, machinery, and appurtenances related thereto.

(10) Trade shops, including sheet metal, roofing, upholstering, electrical, plumbing, cabinetmaking and carpentry, rug and carpet cleaning, and sign painting, provided that all operations are conducted entirely within a building.

(11) Food processing plants, such as bakeries, meat packers, or fish and poultry houses.

(12) Frozen dessert and milk processing plants.

(13) Salvage yards, junkyards, and collection yards for metals, tires, etc., meeting additional requirements such as:

a. It must be surrounded by a buffer, natural buffer, such as trees and shrubs, or manmade buffer, such as fencing at least eight feet high.

b. All buildings, structures, and appurtenant accessories shall be 50 feet or greater from all property lines.

c. It must meet all applicable federal and state requirements.

(14) Any other light industrial operations which do not cause injurious or obnoxious noise, vibrations, smoke, gas fumes, odor, dust, fire hazard or other objectionable conditions.

(15) Crematoriums

(16) Itinerant Vendors and lunch wagons

Setback and Regulations.

Minimum lot area (sq.ft)		½ acre
Minimum lot dimensions		
	Width	The lot width must front a city, county, state or federally maintained street, road, or highway and which has been legally recorded and maintained as such. The minimum width of such lot shall be no less than 125 feet.
	Depth	None
Minimum Yards		
	Front Setback from Street Right of Way or property line	Front yard: 50 feet
	Side	Side yard: 50 feet.
	Rear	Rear yard: 50 feet
Maximum Building Height		
	Feet	60ft
Minimum Heated Floor Area		
		None

~~DIVISION.~~

~~I-2 HEAVY INDUSTRIAL DISTRICT~~

~~Intent.~~

~~The I-3 heavy industrial district is intended for heavy and extensive industrial uses where resultant noise, odors, pollution, and congestion occur, but are kept to a minimum. Residential development is prohibited. This district is not suitable for industrial or manufacturing that collects, stores, or disposes of hazardous materials and its by-products.~~

~~Permitted uses.~~

~~Structures and land may be used for only the following purposes:~~

- ~~—— (1) —— All permitted uses in the I-1 light industrial district, and I-2 general industrial district.~~

- (2) — Office buildings.
- (3) — Development of natural resources including the removal of minerals and natural materials together with necessary buildings, machinery, and appurtenances related thereto.
- (4) — Food processing plants, such as bakeries, meat packers, or fish and poultry houses.
- (5) — Frozen dessert and milk processing plants.

Conditional uses.

Structures and land may be used under specific conditions for only the following purposes:

- (1) — Churches and other places of worship with attendant educational and recreational buildings, and their appurtenant accessory uses (e.g., cemeteries, mausoleums, etc.).
- (2) — Clinics.
- (3) — Theaters, including drive-in theaters.
- (4) — Bus, railroad and air terminals.
- (5) — Places of assembly including auditoriums, stadiums, coliseums and dancehalls.
- (6) — Produce and farmers' market.
- (7) — Truck terminals.
- (8) — Auto auctions.
- (9) — Trade shops including sheet metal, roofing, upholstering, electrical, plumbing, cabinetmaking and carpentry, rug and carpet cleaning, and sign painting, provided that all operations are conducted entirely within a building.
- (10) — Salvage yards, junkyards, and collection yards for metals, tires, etc., meeting additional requirements such as:
 - a. — It must be surrounded by a buffer area, such as trees and shrubs, or manmade buffer, such as fencing, at least eight feet high.
 - b. — All buildings, structures, and appurtenant storage areas or accessories shall be 50 feet or greater from all property lines.
 - c. — It must meet all applicable federal and state requirements.
- (11) — Itinerant vendors and lunch wagons
- (12) — Crematoriums

Setback and Regulations:

Minimum lot area (sq.ft)		1/2 acre
Minimum lot dimensions		
	Width	The lot width must front a city, county, state or federally maintained street, road, or highway and which has been legally recorded and maintained as such. The minimum width of such lot shall be no less than 125 feet.
	Depth	--
Minimum Yards		
	Front Setback from Street Right of Way or property line	Front yard: 50 feet for major and minor streets;
	Side	Side yard: 50 feet.
	Rear	Rear yard: 50 feet
Maximum Building Height		
	Feet	60ft
Minimum Heated Floor Area		
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DIVISION ____**Special use SU-1 (restricted) district.****Special use SU-1 (restricted) district.**

Within a special use SU-1 (restricted) district, the following uses shall be permitted:

- (1) The planting of permanent vegetation, ground cover, timber or any other vegetation to prevent erosion, sedimentation or to prevent soil disturbance in the designated district.
- (2) The property in this classification has previously been declared to be a potential threat to human health and the environment, based upon either federal regulations, state procedures and/or local decisions of the zoning and planning commission of the city. As such, no improvements which would allow human occupation of the property. No groundwater collection facilities, ponds or lakes; or any wells (drinking water, commercial use wells, raw water or any other type wells) shall be permitted in this district.

DIVISION ____**Special Use Classification****Special use classification.**

(a) A "special use classification" shall be defined as a district which creates, adjacent to abutting residential, commercial or industrial zones, a certain new classification of property based upon a special use of such property, or special stipulations concerning the use of the property, since the property, because of its unique character, location or use, does not fit within the general use requirements by district, as contained in article V of this chapter. This use classification is based upon either special conditions for the use of the property, certain restrictions that will be applied to the use or other similar circumstances so that the property thereafter will be designated with the special use. As an example, an R-1 use could have a further classification of SU appended to it in that the residential single-family dwellings to be built upon the property shall be based upon lots with either additional setback requirements as those contained in the subdivision regulations, square footage use restriction or other similar restrictions that may be placed by the developer of the property; or special uses placed upon the property by the city in connection with any review and approval of zoning of the property.

(b) The use to be permitted by this designation either as a special district under this article, or as a designation within any other residential, commercial or industrial district, shall consider the following uses and matters affecting the property:

- (1) The use and zoning of surrounding property.
- (2) The need for a special buffer, special circumstances with regard to the zoning classification, or other special use requirements of the property based upon location, terrain, size, topography or similar criteria.
- (3) The overall zoning development plan of the city as it relates to the geographical district within one square mile radius of the location of the property.
- (4) Environmental conditions, uses, concerns or similar requirements.
- (5) The submitted development plan, or proposed building plan of the property.
- (6) Other criteria as may be established by the planning commission or building inspector of the city in a review of any requested zoning.

DIVISION __.

PD PLANNED DEVELOPMENT DISTRICT

Purpose.

(a) Planned development zoning is of a substantially different character than other types of zoning. Because of the difference in character, special standards and procedures are hereby established to govern and guide the creation of planned development zoning districts.

(b) Planned development zoning is a privilege to be earned and not a right which can be claimed simply upon complying with all the standards established in this division. The planning commission and/or city commission may require any reasonable condition or design consideration which will promote proper development of benefit to the community. It is not intended that the commission and/or commission automatically grant the maximum use exceptions or density increases in the case of each planned development. The commission and commission shall grant only such increase or latitude which is consistent with the benefit accruing to the city as a result of the planned development. As a condition for approval, each planned development must be compatible with the character and objectives of the zoning district within which it is located, and each planned development shall be consistent with the objectives of the city comprehensive plan and all applicable laws, ordinances and regulations of the city.

(c) Some specific purposes of the planned development procedures are:

- (1) To take advantage of advances in technology, architectural design and functional land use design;

- (2) To permit flexibility of design in the placement, height, and uses of buildings, open spaces, circulation facilities and off-street parking areas, and to more efficiently utilize potentials of site characterized by special features of geography, topography, size and shape; and
- (3) To protect floodplains from encroachment by development within the city.

Types of planned development.

The types of planned development are:

- (1) PD-1, planned residential development;
- (2) PD-2, planned commercial (business) development; and
- (55) PD-3, planned industrial development.
- (4) PD-4, planned mixed use development

General standards for planned developments.

Before an application for planned development can be approved, the applicant must present evidence which clearly supports the following conclusions:

- (1) The proposed development advances the general welfare of the community and the immediate vicinity;
- (2) The plan is in conformity with the comprehensive plan and other applicable laws, ordinances and/or regulations;
- (3) The proposed development is consistent in all respects with the purpose and intent of this chapter;
- (4) The site will be accessible from public roads that are adequate to carry the traffic that will be imposed upon them by the proposed development, and the streets and driveways on the site of the proposed development will be adequate to serve the residents or occupants of the proposed development;
- (5) The development will not impose an undue burden on public services and facilities, such as fire and police protection;
- (6) The location and arrangement of structures, parking areas, walks, lighting, and appurtenant facilities shall be compatible with the surrounding land uses, and any part of a planned development not used for structures, parking and loading areas, or accessways shall be landscaped or otherwise improved. The height of buildings shall be compatible with surrounding land uses as well as the general characteristics of the area to be developed and the surrounding area and acceptable to the criteria for height restrictions established by this chapter and/or applicable fire regulations;
- (7) Natural features such as watercourses, trees and rock outcrops will be preserved, to the degree possible, so that they can be incorporated into the layout to enhance the overall design of the planned development; and
- (8) The planned development can be substantially completed within the period of time specified in the

schedule of development submitted by the developer.

Ownership control.

All of the land in a planned unit development shall be owned initially by a person or joint tenants or tenants in common. Individual properties in a planned unit development may be sold after a plat has been recorded, with the properties subject to private deed covenants that assure the continuance of the planned unit development as originally approved and developed. If the applicant of a planned development is not intending to develop the property but instead plans to sell all or a portion of the area designated as planned development or otherwise to allow a third party to develop the property, the city may reduce the standards of site approval if site specifications are not yet available with the understanding that any future purchasers or developers will have to complete the entire approval process once plans for improvement are available.

Procedure for approval.

(a) *Preapplication conference.* Prior to filing a formal application for approval of a planned development, the developer shall request a preapplication conference with the planning commission, to include city staff and such persons as determined by the city that may provide adequate representation for the city. The purpose of such conference is to allow the developer to present a general concept of his proposed development prior to the preparation of detailed plans. For this purpose, the presentation shall include, but not be limited to the following:

- (1) Written letter of intent from the developer establishing his intentions as to development of the land.
- (2) Topographic survey and location map.
- (3) Sketch plans and conceptual objectives regarding land use pattern, structure location and type, street and lot arrangement and tentative lot sizes.
- (4) Tentative proposals regarding water supply, sewage disposal, surface drainage, street improvements and flood control measures.
- (5) The planning commission shall then instruct the developer to file an application and advise the developer to familiarize himself with the city zoning requirements, comprehensive plan, and all other development regulations affecting the proposed development. A copy of this division shall be made available upon request.

(b) *Preliminary plan.* Seven copies of the preliminary plan of the planned development and the application shall be filed with the zoning officer, who shall, in turn, forward them to the planning commission for consideration. The required procedure for consideration and approval of the preliminary plan shall be as follows:

- (1) An application for zoning amendment shall be secured from the zoning officer. The completed application shall be filed with the zoning officer accompanied by other subdivision requirements as specified in this Code.
- (2) The planning commission shall study materials received and confer with other agencies, as appropriate, and city officials to determine general acceptability of the proposal as submitted. In the course of such preliminary consideration, the planning commission may request and the applicant shall supply additional material needed to make specific determinations.
- (3) Following such study, the planning commission shall hold a conference or conferences with the applicant

to discuss desirable changes in the first or succeeding drafts of the preliminary development plan and report.

- (4) Recommendations of the planning commission to the applicant shall be in writing, and following any such conference, agreements between the applicant and the planning commission as to changes in the preliminary plan or other matters are to be recorded and acknowledged by the planning commission and the applicant in writing. Items on which no agreement is reached or on which there is specific disagreement shall be recorded, and the applicant may place in the record his reasons for any disagreement.

- (5) Upon the occurrence of either of the following conditions, the planning commission will schedule the proposed plan for a public hearing:

- a. When the preliminary development plan has been approved in principal (as a whole or with reservations specifically indicated); or
- b. When the applicant indicates in writing that no further negotiations with the planning commission are desired before proceeding.

Regardless of which subsection (b)(5)a or (b)(5)b of this section is satisfied, the planning commission must make its recommendations to the city commission within 60 days from the submission of the preliminary plan application. The planning commission shall make its recommendations to the city commission. Such recommendations shall indicate approval, approval with specific reservations or disapproval with reasons.

- (4) The City Commission shall then schedule a public hearing on the matter. Within 60 days from the public hearing for the preliminary plan and respective planned development zone designation, the city commission shall approve the proposal outright, approve the proposal subject to conditions, or deny the proposal. Commission approval shall be by ordinance. If conditions are attached to commission approval, there shall be no change in the zoning map until such conditions are formally accepted in writing by the developer. When approved, the area of land proposed for development shall be designated PD-1, PD-2, PD-3 or PD-4 and shall be used only in accordance with the uses and densities shown on the planned development approved and adopted preliminary plan.

(c) *Approval and recording of final development plan.*

- (1) The purpose of such recording is to designate with particularity the land subdivided into conventional lots, as well as the dimension of other lands not so treated, into common open areas and building areas, and also to define each building site as well as the use of the land in general.

- (2) The approval and recording of the final development plan may be accomplished in stages if the stages have been specified in the construction schedule approved with the preliminary plan.

- a. Upon the designation of the planned development district by commission, the final development plan shall be presented and approved in a form suitable for recording with the county clerk's office.
- b. The proposed plat (the final development plan in a form suitable for re-zoning) shall then be forwarded to the planning commission for review and, if approved, shall be forwarded to the city manager, who shall make appropriate arrangement with the applicant to ensure the accomplishment of public improvements at the applicant's expense and as provided by this Code.

The city manager shall consult with the commission concerning any land to be publicly or commonly owned and shall arrange for the necessary legal deeds.

c. The final plat shall be presented by the city manager and the proposed developers to the city commission for formal approval and recording.

d. The approved record plat shall then be submitted to the county clerk's office for recording within six months after approval by commission.

e. No final development plan within the corporate limits of the city shall be so recorded unless it shall have the approval of commission, as indicated by the signatures of the chairman and the city clerk, inscribed thereon.

(d) *Zoning permit.* No zoning permit shall be issued by the zoning officer until the final development plan has been approved and duly recorded.

(e) *Certificate of zoning compliance.*

(1) The zoning officer shall issue no certificate of zoning compliance until all utilities have been accepted by the city in accordance with the final development plan.

(2) If all utilities, including roadways, have not been accepted by the city, the zoning officer may issue a temporary certificate of zoning compliance upon certification by the city manager that the existing public utilities are functionally acceptable and adequate for the use of the premises. Should the city manager find, while the temporary certificate of zoning compliance is in force, that the existing utilities are no longer functionally acceptable and adequate, the city manager may order the cancellation of the temporary certificate of zoning compliance and direct the developer to vacate the premises of occupants.

(3) The temporary certificate of zoning compliance remains in effect until all utilities, including roadways, are accepted by the city, at which time the zoning officer will issue a permanent certificate of occupancy.

(f) *Changes in the planned development.*

(1) A planned development shall be developed only according to the approved and recorded final plan, and all recorded amendments shall be binding on the applicants, their successors, grantees and assignees and shall limit and control the use of premises (including the general internal use of buildings and structures) and location of structures in the planned development as set forth therein. Any deviation from the approved and recorded final plan must have planning commission review and city commission approval in writing and as an amendment to the plan.

(2) All requested changes or revisions to an approval and recorded final plat must be made to the planning commission. The commission must determine if these proposed changes are deemed "minor" or "major" plan revisions, as hereinafter defined. For purposes of this chapter, these terms are defined as follows:

a. *Major changes.* Changes which alter the concept or intent of the planned development, including, but not limited to, increases in the number of units per acre; change in location or amount on nonresidential land use; more than ten percent modification in proportion of housing types; reductions of proposed open space; significant redesign of roadways, utilities or drainage may be approved only by submission of a new preliminary plan and supporting data, and following the "preliminary approval" steps and subsequent amendment of the final planned development plan.

b. *Minor changes.* A minor change is any change not defined as a major change. The city zoning officer and the planning commission may jointly approve minor changes in the planned development which do not change the concept or intent of the development without repeating the "preliminary approval" steps. The zoning officer shall enter in detail all minor changes on the official final development plan on record with the city.

(g) *Schedule of construction.* A modification of the schedule may be approved by the city commission if the developer shall present satisfactory evidence of reasonable effort toward meeting the initial schedule and justification for the modification. If construction falls more than one year behind schedule, as determined by the city engineer, and the developer fails to justify the delay to the commission's satisfaction, commission may proceed to complete all or any part of such improvements and recover the costs thereof by laying claim to the guarantee specified in **section 23-589(b)(2)**.

(h) *Effect of denial of a planned development.*

(1) If an application for a planned development is denied wholly or partly, then for a period of one year from the date of submission thereof, the planning commission need not consider any resubmission therefore.

(2) If a preliminary development plan is approved and the final development plan is thereafter disapproved, the applicant, or his successor in interest, may at any time submit one or more new versions of the final development plan, so long as the new versions are in full compliance with the approved preliminary development plan, including any conditions attached to said plan.

PD-1 planned residential development.

(a) *Policies guiding development.* This district is intended to provide flexibility in the arrangement and design of residential dwellings, based upon a unified development plan conceived and carried out for an entire area. Within this district, appropriate and reasonable population density is maintained while a variety of dwelling unit types is encouraged. Natural features such as topography, trees and drainageways are encouraged to remain in their natural state to the degree possible. Such developments are generally characterized by a significant proportion of usable open space and a unified design concept with particular attention devoted to the periphery of the development, the overall objective being the compatibility of the development with its surroundings.

(b) *Permitted uses.*

(1) Permitted uses are those included as permitted, conditional and accessory uses in all residential zones, as established by this chapter.

(2) Convenience establishments as conditional uses are those established as necessary for the proper development of the community and to be so located, designated and operated to serve primarily the needs of the persons within the planned development plot. Uses shall be generally limited to those uses permitted in the C-1 and C-2 districts, with no direct access or advertising signs for such uses to be visible from the exterior of the development. Such convenience establishments and their parking areas shall not occupy more than five percent of the total area of the development. No separate building or structure designed or intended to be used, in whole or in part, for business purposes shall be constructed within a residential planned development until not less than 30 percent of the dwelling units proposed in the development plan are certified for occupancy.

(c) *Area requirements.* The minimum land area required for a planned residential development shall be five acres. This area requirement may be reduced at the discretion of the planning commission and city commission if it can be demonstrated that a waiver is necessary to achieve an improved site design and that surrounding neighborhoods and

public facilities will not be adversely affected.

(d) *Density requirements.* Any combination or cluster of housing units is permitted, provided that the average lot area per family or dwelling unit contained in the site, exclusive of the area of street rights-of-way, parking areas and commercial areas, must be at least 80 percent of the average lot area per family required in the surrounding nonagricultural districts. This density requirement may be varied at the discretion of the planning commission and city commission if it can be demonstrated that a waiver is necessary to achieve an improved site design and that surrounding neighborhoods and public facilities will not be adversely affected.

(e) *Site design.*

(1) All housing shall be sited to preserve privacy and to ensure natural light.

(2) Lot widths may be varied to permit a mixture of structural designs. Varied setback is encouraged.

(3) Where feasible, housing units should be situated to abut common open space or similar areas. A clustering of dwellings is encouraged.

(f) *Structure spacing.* A minimum of 20 feet shall be maintained between principal structures.

(g) *Length.* There shall be no continuous structure of townhouses, attached dwellings or apartments containing more than 12 dwelling units on ground floor level.

(h) *Height.* The building height of any residential structure within a planned development shall not exceed 45 feet or 3 1/2 stories. However, the planning commission may grant an exception if it is demonstrated that additional height can be achieved with concurrent expansion of suitable open space to protect adjacent structures from adverse reduction of light and air.

(i) *Setback and screening.* A minimum setback of 50 feet shall be provided along the entire perimeter of the development and retained in natural woods, or be suitably landscaped with grass and/or ground cover, shrubs and trees. Projects located adjacent to commercial or industrially zoned areas shall provide suitable screening to the residential development as adjudged by the planning commission. Screening shall not obscure traffic visibility within 50 feet of an intersection.

(j) *Common open space.*

(1) A minimum of 25 percent of the total land in any planned residential development shall be reserved for permanent common open space and recreational facilities for the residents or users of the area being developed. In extreme topographical conditions, at the discretion of the planning commission, this requirement may be reduced.

(2) Only area having minimum dimensions of 50 feet by 100 feet shall qualify for computation as usable open space.

(k) *Parking requirements.* A minimum of two spaces per unit, with two extra spaces for each building with multiple units.

(l) *Signs.* Permitted sizes and locations of signs within the PD-1 development shall be in compliance with the standards established in article III of chapter 5.

(m) *Utilities.* All utilities, including electric, telephone, gas, water and sewer lines must be buried, except

when deemed unfeasible as determined by the city engineer.

PD-2 planned commercial development.

(a) *Policies guiding development.* This district is provided in recognition that many commercial establishments seek to develop within unified commercial areas, usually under single ownership and control and typically called "shopping centers." Within the premises of the zone, such centers would have all the necessary services and facilities comprehensively provided in accordance with an approved development plan. Provisions of this zone are formulated to achieve harmoniously designed structures upon a well landscaped site, achieving a high degree of pedestrian-vehicular separation, all of which would be compatible with surrounding land uses.

(b) *Permitted uses.* Uses included are those permitted, accessory and conditional uses in all commercial districts and O-I office-industrial district developed in accordance with the approved development plan, but subject to review of the planning commission and the approval of the city commission.

(c) *Arrangement and design of commercial uses.*

(1) Commercial buildings and establishments shall be planned as groups having common parking areas and common ingress and egress points in order to reduce the number of potential accident locations at intersections with thoroughfares.

(2) The plan of the project shall provide for the integrated and harmonious design of buildings and for adequate and properly arranged facilities as may be necessary to make the project attractive and efficient from the standpoint of the adjoining and surrounding existing or potential developments.

(3) The buildings, all facade areas and general design shall be presented, by computer model or artist rendering, so that the concept of the design may be thoroughly reviewed by the planning commission and city commission. This shall include, but not necessarily limited to, the use of brick, hardy plank, or other appropriate construction material on the front facade and side views as might be necessary to enhance the overall appearance of all buildings proposed to be constructed in the plan. In addition, the plan shall provide information concerning the overhang adjacent to the building, common walkways, color schemes to be used, and other similar enhancement features for the development.

(4) The construction of buildings shall maintain a general common theme or design, so as to protect the special integration of the project as much as practicable. Concrete block shall not be exposed, unless approved. The developer shall furnish a general specification list of materials to be used in the construction of improvements to all commercial building and establishments planned for the development.

(d) *Area requirements.* The minimum land area for a planned commercial development shall be five acres.

(e) *Structure spacing.* A minimum of 20 feet shall be required between adjacent principal buildings.

(f) *Setback and screening.*

(1) A setback of at least 50 feet shall be provided along the entire perimeter of the development. However, where the planned development adjoins a business or industrial district, the setback and screening requirements shall be at the discretion of the planning commission.

(2) Where situated adjacent to a residentially zoned area, a minimum of 20 feet along the exterior property line shall be planted with an evergreen hedge or dense planting of evergreen shrubs not less than three feet in height at the time of planting. A landscaped mound adequate to provide screening may be substituted for hedge or shrubs.

(3) In no case shall screening be placed within 50 feet of a curb cut or intersection.

(4) Vehicular access through such landscaped strip when leading from residential areas shall be permitted only for convenience of residents of adjoining residential areas, and not designed for use by the general public.

(g) *Parking requirements.* Standards for parking shall be as established in article V, division 3 of this chapter.

(h) *Loading and unloading areas.* Standards for loading and unloading areas shall be as established in article V, division 3 of this chapter.

(i) *Signs.* Standards for the sizes and locations of signs shall be as established in article III of chapter 5.

(j) *Utilities.* Wherever possible, utilities shall be housed in structures compatible with the development so as not to detract from the overall aesthetic design.

PD-3 planned industrial district.

(a) *Policies guiding development.* The provisions of this district are provided in recognition that many industrial establishments seek to develop within unified industrial areas having all necessary services and facilities comprehensively provided in accordance with a predetermined development plan. As in the planned business zone (PD-2), provisions of this zone are formulated to encourage a high degree of coordinated development upon well landscaped premises. Particular attention is devoted to design of the periphery of the development with the objective of achieving compatibility with existing and potential surrounding land uses. Minimum areas size is five acres.

(b) *Permitted uses.* The following uses will be permitted in accordance with the approved development plan:

(1) Assembly plants.

(2) Automobile repair establishments, but no commercial wrecking, dismantling or salvage yards.

(3) Auto service stations.

(4) Automobile, truck, or boat sales establishments.

(5) Bottling works.

(6) Builders supply store.

(7) Building and trades, including contractor's yard and utilities storage yard.

(8) Carpet cleaning, dry cleaning and dyeing, and laundry establishments.

(9) Cold storage plants.

- (10) Commercial greenhouses.
- (11) Dairy products manufacturing facilities.
- (12) Facilities for the fabrication, processing, packaging and/or manufacture of food products and condiments excluding fish products, slaughterhouses and rendering and refining of fats, oils, fish, vinegar, yeast and sauerkraut.
- (13) Facilities for the fabrication, processing, packaging and/or manufacture of cosmetics, drugs, perfumes, pharmaceuticals, and toiletries.
- (14) Facilities for the fabrication, processing, packaging and/or manufacture of articles or merchandise from the following previously prepared materials: bone, canvas, cellophane, cloth, cork, feathers, felt, fiber, horn, leather, paint, paper, plastics, precious or semi-precious metals or stones, textiles, tobacco, wax, wood and yarn.
- (15) Facilities for the fabrication, processing, packaging, and/or manufacturing of musical instruments, toys, novelties, rubber or metal stamps.
- (16) Facilities for the fabrication, processing, packaging and/or manufacture of ice, cold storage plant, bottling plant.
- (17) Farm implements and contractor equipment sales and service.
- (18) Foundry casting lightweight nonferrous metals or electric foundry, not causing noxious fumes or odors.
- (19) Fuel or coal company.
- (20) Furniture reupholstering and repair.
- (21) Industrial research laboratories.
- (22) Inflammable liquids, underground storage only.
- (23) Lumberyards including incidental millwork, coal, brick, stone.
- (24) Monument sales, including incidental mechanical operations.
- (25) Motor freight depot or trucking terminal provided, the truck entrance and exits are on to streets whose pavement width is at least 30 feet between curbs.
- (26) Painting or varnishing shops.
- (27) Call centers.
- (28) Plumbing supply and contracting shops, including storage yards.
- (29) Public garages, motor vehicle and bicycle repair shops, auto paint and body shops.
- (30) Publishing and printing establishments.

- (31) Railroad freight stations, but not including switching, storage, freight yards, sidings or maintenance or fueling facilities.
- (32) Repair, rental and servicing for appliances.
- (33) Sign contractors.
- (34) Stone grinding, dressing and cutting.
- (35) Storage yard for building supplies and equipment, contractors equipment, food fabrics, hardware and similar goods when located entirely within a building, provided such buildings shall not be used for wrecking or dismantling of motor vehicles.
- (36) Television and radio broadcasting towers.
- (37) Veterinary clinic or kennels, animal hospital, provided that all animals are housed in buildings or enclosures which are at least 500 feet from any residential district.
- (38) Warehouses.
- (39) Wholesale distributors.

(c) *Restrictive covenants.* No use shall be allowed within any planned industrial district which violates the restrictive covenants presented, promulgated, or hereinafter enacted that govern the construction of any industrial-related improvements within any industrial parks in the city. These restrictions are permanently recorded and placed upon the deed records of the county. Reference to them is hereby made as if particularly set forth in this chapter.

PD-4: Mixed Use Development

May include a combination of any of the uses described in PD-1, PD-2 or PD-3 however strict attention and conditions will be placed to ensure that the proposed uses, structures, landscaping and buffer areas are compatible. Minimum acreage is 10 acres.

Preliminary plan stage.

- (a) *Application.* An application for preliminary planned development shall be secured from, and the fully completed application shall be filed with, the zoning officer, together with the appropriate fee in accordance with the city prevailing rate schedule.
- (b) *Material to be submitted with applications.*
 - (1) Identification of all property owners within the proposed development, evidence of unified control of the entire area of the development, tentative agreement of all owners to proceed with development according to plan or to provide adequate sureties for completion.
 - (2) A map or maps indicating the relation of the proposed development to the surrounding area. As appropriate to the development proposed, such map or maps shall demonstrate access to major streets, and show the approximate location and sizes of existing public sewers, water lines and storm drainage systems.

(3) Topographic data map drawn to a scale of 100 feet or less to one inch by a registered surveyor and/or engineer showing:

a. Boundary lines, bearing and distances;

b. Easements, location, width and purpose;

c. Wooded areas, streams, lakes, marshes and other physical conditions affecting the site;

d. Ground elevations on the tract;

e. If deemed necessary by the city engineer, subsurface conditions on the tract, including the location and results of tests made to ascertain the conditions of subsurface soil, rock and groundwater;

f. Name, address and phone number of the registered surveyor, registered engineer and/or urban professional planner assisting in the preparation of the preliminary development plan.

(c) *Preliminary development plan and report.* A preliminary development plan and report shall accompany the application with maps at a scale of 100 feet or less to the inch, including as appropriate to the kind of planned development proposed; the following information, presented in generalized form:

(1) Proposed land uses and appropriate height, bulk and location of principal structures sufficient to permit an understanding of the style of the development. Proposals containing residential units shall specify the number of housing units by size and type proposed within the initial phase of the proposal or within the overall development if the development is not to be staged.

(2) Proposed automotive and pedestrian circulation patterns including streets by type (major, collector or minor) and width, public or private bicycle paths and pedestrian ways and existing or plotted streets proposed to be vacated.

(3) Major off-street parking areas.

(4) Proposed parks, playgrounds, school sites and other major open spaces as well as the general form of organization proposed to own and maintain any common open space.

(5) General locations of utility installations and easements.

(6) A schedule of construction which shall indicate the estimated date for the start of construction and the duration of the construction period in months. The commencement date of construction may be set relative to the plan's approval date. If development is to be in stages, indication as to order and timing of development and demonstration that each stage, when completed, would complement any completed earlier, and would form a reasonably independent unit even though succeeding stages were delayed.

(7) Proposals for provision of public facilities, utilities or services where lacking or unlikely to be available when needed for the planned development, or for providing suitable private facilities, utilities or services. A report shall be provided containing proposals for improvement and continuing maintenance and management of any private streets, facilities, retention ponds or other common areas.

(8) The substance of covenants, grants and easements or other restrictions proposed to be imposed upon the use of the land, building and structures including proposed easements or grants for public utilities. All

agreements for the planned development reached, or finally approved as a part of this process between the applicant and the city shall become a part of covenants, grants or easements recorded upon the deed records of the county as may be necessary or applicable to insure compliance with all terms and provisions of the planned development.

Final plan stage.

(a) *Requirements for the final development plan.*

(1) A map in the form required by the governing subdivision regulations for recording of final plats or subdivisions, with such modifications and additions as required to achieve the design flexibility of the planned development concept. Similar modifications of standards contained in the governing subdivision regulations or in other regulations or policies applying generally may be reflected in such maps and reports if the planning commission shall find and shall certify, after consultations with other agencies of government as appropriate in the specific case, that the public purposes of such regulations or policies are as well or better served by specific proposals of the formal plan and reports.

(2) A general site and land use plan for the planned development as a whole, indicating subareas for phase development, if any, and showing location and use of structures and portions of structures in relation to building sites reserved for future use and uses for which sites are reserved, automotive and pedestrian circulatory networks, principal parking areas, open space not in building sites and the use for which it is intended, and such other matters as are required to establish a clear pattern of the relationships to exist between structures, uses, circulation and land.

(b) *Agreements, contracts, deed restrictions and sureties.*

(1) All agreements, contracts and deed restrictions shall be submitted in a form acceptable to the city. Acceptance of the documents shall be in the form of a letter from the city manager certifying that all such requirements have been met. The applicant shall guarantee the installation of the public improvements specified in the final development plan through one of the following methods:

a. Filing a performance and labor and material payment bond in the amount of 125 percent of the estimated construction cost as determined by the city.

b. Depositing or placing in escrow a certified check or cash or any other acceptable pledge, in the amount of 125 percent of the construction cost as approved by the city.

Acceptance of the form of guarantee selected shall be evidenced by a formal letter from the city manager.

(2) The owners of the planned development or persons legally representing them shall execute a legally binding agreement providing for the maintenance of commonly owned open space, recreation areas, and automotive and pedestrian circulatory networks. In addition, such owners or persons legally representing them shall authorize the city police department and any other properly constituted law enforcement agency to exercise full powers of arrest on the premises.

ARTICLE __.

SUPPLEMENTAL ZONING REGULATIONS

DIVISION 1.

GENERALLY

Limitation on number of unrelated occupants in single-family districts.

(a) It shall be unlawful and a violation of this code for any occupants residing in or for the owner of any single-family dwelling or unit located in the R-1, R-2, or R-2A zoning districts to have more than 3 unrelated individuals residing therein. Furthermore, no family as defined in this code shall have, in addition to the members of their family, more than 2 unrelated individuals residing with such family. For purposes of this section, 1 unrelated individual residing with a family shall include the minor child or children of such unrelated individual residing with him or her.

(b) Any person or persons found guilty of violating this section shall be punished as provided in **Section 1-13** of this code.

(c) Prima facie proof of occupancy of a dwelling unit by more than 3 unrelated persons shall be established in any prosecution for violation of this section if it is shown that the same 4 or more vehicles registered to persons having different surnames and addresses were parked overnight at the dwelling a majority of nights in any 21 day period. The establishment of a prima facie level of proof in this subsection does not preclude a showing of an unauthorized occupancy of a dwelling unit by a person in any other manner.

(d) The property owner and any agent of the property owner shall be legally responsible for directly or indirectly allowing, preventing, causing, or failing to prohibit the occupancy by more than 3 unrelated persons of a single family dwelling unit located in the R-1, R-2, and R-2A zoning districts as prohibited by this code section.

(e) For purposes of the prohibitions set forth in this code section, any non-conforming use created by the definition of what "family" as provided at the time of adoption of this ordinance in 2007, and the regulations related thereto, which was a legal use at the time of such adoption shall be permitted to continue through January 1, 2008. After the date of adoption of this ordinance, the use of such dwellings shall be in compliance herewith. However, any use established subsequent to the adoption of this definition of "family" and this ordinance, which use did violate and continues to violate any standards of this code section, is illegal, not non-conforming, and shall be prosecuted as any other violation of this code.

DIVISION ____.

HOME OCCUPATIONS

Defined; purpose.

Home occupations are accessory uses in residential districts and shall be governed by the standards set out in this division. These standards are intended to ensure compatibility with the residential character of the neighborhood and to emphasize the clearly secondary or incidental status of the home occupation in relation to the residential use of the main building. Home occupations will be authorized upon issuance of a occupational tax permit from the city.

Standards.

The following standards must be met for all home occupations:

- (1) Such occupation shall be located and conducted in such a manner that the average neighbor, under normal circumstances, would not be aware of its existence.
- (2) Solely occupants at the residence shall conduct such occupations.
- (3) No internal or external alterations inconsistent with the residential use of the building, accessory building or property shall be permitted, and no more than 25 percent of the gross floor area shall be utilized.
- (4) The applicant must be the owner of the property on which the home occupation is to be located, or, if the applicant is a tenant, he must have written approval of the owner of the property.
- (5) No stock in trade (except articles produced by the members of the immediate family residing on the premises) shall be displayed or sold upon the premises.
- (6) No outside storage related to the home occupation shall be permitted.
- (7) No uses shall create noise, dust, vibration, smell, smoke, glare, electrical interference, fire hazard, or any other hazard or nuisance to a greater or more frequent extent than that usually experienced in an average residential occupancy.

Occupations allowed.

Home occupations include, but are not limited to, the following:

- (1) Telephone and office use:
 - a. Applicant's business activities at the residence shall be confined to home office consisting of a personal computer, fax machine, phone, or any other accessory office equipment typically used to establish a home office;
 - b. No employee or jobbers shall meet or congregate at the applicant's residence;
- (2) Artists, sculptors, authors, or composers;
- (3) Dressmakers, seamstresses, or tailors;
- (4) Home crafts, such as model making, rug weaving, and lapidary work;
- (5) Office facility for a minister, rabbi, or priest;
- (6) Office facility for a salesperson, sales representative, or manufacturer's representative, provided that no retail or wholesale transactions are made on the premises;
- (7) Tutors and musical instructors;
- (8) Professional offices provided no clients, customers or business activities occur on the premises, so as to violate section 23-662, standards; and
- (9) Any other occupation that the commission finds compatible with the purposes and intent of this section.

Occupations prohibited.

Home occupations allowed shall not, in any event, be deemed to include the following:

- (1) Funeral chapels or funeral homes;
- (2) Nursery schools, kindergartens, day care homes, or centers;
- (3) Private clubs;
- (4) Restaurants;
- (5) Tourist homes;
- (6) Stables or kennels;
- (7) Auto repair or similar establishments; or
- (8) Any other occupation that the planning commission finds incompatible with the purposes and intent of this section. Any occupational activities that promulgate or include lewd, illicit, lascivious, illegal, and iniquitous behavior shall not be allowed.

Expiration.

An occupation tax permit for home occupations shall expire:

- (1) Whenever the applicant ceases to occupy the premises for which the home occupation permit was issued. No subsequent occupant shall engage in any home occupation until proper application has been made, and a new permit issued.
- (2) Whenever the holder of such permit fails to carry on the occupation for which the permit was issued for any continuous period of 90 days.

Improper or illegal use of the home occupation permit.

If the planning commission finds that a home occupation is being conducted in violation of this or any other provision of these regulations, then such permit may be suspended or rendered void, provided that a regular hearing shall be conducted prior to any action to suspend, modify or revoke the permit.

DIVISION 3.

OFF-STREET PARKING AND LOADING

General requirements for off-street parking.

- (a) Parking spaces for all dwellings shall be located on the same lot with the main building.

(b) Parking spaces for other uses shall be provided on the same lot or not more than 300 feet distance, measured along the nearest pedestrian walkway.

(c) Parking requirements for two or more uses of the same or different types may be satisfied by the allocation of the required number of spaces for each use in a common parking facility provided the total number of spaces is not less than the sum of the individual requirements and that the requirements of location are complied with.

(d) Areas reserved for off-street parking or loading shall not be reduced in area or changed to any other use unless the permitted use which it serves is discontinued or modified, or unless equivalent parking or loading is provided on another approved site or parking structure to the satisfaction of the planning commission.

(e) Lighting facilities shall be arranged so that light is reflected away from adjacent properties.

(f) Along lot lines of a parking area which abut a residential district, a dense planting of trees and shrubs shall be established on a strip of land not less than ten feet in width adjacent to the districts, and such planting shall not be less than six feet in height and a substantial bumper rail of wood, metal, or concrete shall be installed on the inside of the planting strip except where topography or other conditions would make the bumper rail unnecessary or impractical.

Drainage, construction and maintenance.

All off-street parking, loading, and service areas shall be constructed of concrete or asphalt. All such areas shall be at all times maintained, at the expense of the owners thereof, in a clean, orderly, and dust-free condition. Construction of parking areas should accommodate drainage so that water runoff does not accumulate on adjacent properties.

Separation from walkways, sidewalks and streets.

All off-street parking, loading, and service areas shall be separated from walkways, sidewalks, and streets by curbing or other suitable protective devices. Curbing and other protection devices must be set back a minimum of three feet to prevent vehicle overhang.

Parking area design.

Parking spaces shall have a minimum width of nine feet and a length of 18 feet. There shall be provided adequate interior driveways to connect each parking space with a public right-of-way. Interior driveways shall be at least 24 feet wide where used with 90-degree angle parking, at least 18 feet wide where used with 60-degree angle parking, at least 13 feet wide where used with 45-degree parking, and at least 12 feet wide where used with parallel parking. If there is no parking, interior driveways shall be at least ten feet wide for one-way traffic movement and at least 20 feet wide for two-way traffic movement. The city building inspector shall, based upon surrounding uses, drainage, topography, and any other special conditions related to the site, ultimately approve all parking area designs.

Pavement markings and signs.

Each off-street parking space shall be clearly marked, and pavement directional arrows or signs shall be provided in each travel way wherever necessary. Markers, directional arrows and signs shall be properly maintained so as to ensure their maximum efficiency.

Rights-of-way.

No sign, whether permanent or temporary, shall be placed within the public right-of-way. Signs and planting strips shall be arranged so that they do not obstruct visibility for drivers or pedestrians.

Landscaping and greenspace requirements. (See buffer zone, landscaping and greenspace requirements in section ___ of this code)

Parking space requirements for all districts.

At the time of erection of any principal building or structure, or at any time any principal building or structure is enlarged or increased in capacity by adding dwelling units, guestrooms, floor space or seats, there shall be provided minimum off-street parking space with adequate means of ingress and egress from a public street or alley by an automobile of standard size, in:

Residential	Minimum Parking Spaces Required
Apartments	1 1/2 per dwelling unit
Duplexes	2 per dwelling unit
Efficiency apartments	1 per dwelling unit
Housing for the elderly	1 per dwelling unit
Single-family homes	2 per dwelling unit

Commercial	Minimum Parking Spaces Required
Bed and breakfast inns	1 per each guestroom
Roominghouses	1 per each guestroom
Single-family dwelling; loft-style single-family housing	2 per dwelling unit
Amusement centers, arcades, assembly halls, or pool halls (without fixed seating arrangements)	1 per 100 square feet of gross floor space
Animal hospital or kennels	Parking area equals 30 percent of the total enclosed or covered area

Athletic hospital or health spa	1 per 100 square feet of gross floor area (excluding courts); 3 per court (racquet ball or tennis)
Auto repair services, garages	1 for each 400 square feet or retail area plus 2 for each service bay; minimum of 4 spaces
Bars, nightclubs, taverns	2 per 100 square feet of gross floor area; minimum of 10 spaces
Bowling alleys	3 per alley
Funeral parlors	1 for every 4 seats in main assembly hall
Furniture store	1 per 400 square foot of floor area
General business; retail	1 for every 200 square feet of floor area designated for retail sales only
Grocery and food store	1 for every 100 square feet of floor area designated for retail sales only
Hotels and motels	1 for every sleeping unit
Medical offices	4 for every doctor and/or dentist; 1 for every 200 square feet of floor area
Miniwarehouse	1 for every 10 storage cubicles (parking equally distributed throughout site); 2 for every manager or quarters
Manufacturing, industrial and warehouses	1 for every 3 employees or the largest shift of the day; 1 for every 200 square feet exclusive of storage area
Office buildings (business, professional, commercial)	1 for every 300 square feet of floor area
Personal service establishments	1 for every 200 square feet of floor area

Restaurant (food consumed on premises)	1 for every 3 seats; minimum of 10
Restaurant (carry out only)	1 for every 150 square feet of gross floor area; minimum of 10
Shopping centers	1 for every 250 square feet of gross floor area
Skating rink	1 for every 200 square feet of gross floor area
Theater or auditorium	1 for every 4 seats
Travel trailer parks	1 for every trailer site; 1 for every 2 employees

Institutional	Parking Spaces
Churches	1 for every 4 seats in main assembly hall (seats mean seating capacity)
Governmental offices	1 for every 300 square feet of floor area
Hospital	2 for every 3 beds
Libraries	1 for every 300 square feet of floor space
Nursing homes	1 for every 2 beds plus 1 for every employee on largest shift
Private club or lodge	1 for every 2 employees plus 1 for every 200 square feet of gross floor area
Schools	1 for every 4 seats in assembly hall or 1 for every employee plus 5 for every classroom for high schools and colleges

Off-street loading requirements.

On the same premises with every building, structure or part thereof, erected and occupied for manufacturing, storage, warehouse, truck freight terminal, goods display, department store, wholesale store, market, hotel, hospital, mortuary, laundry, dry cleaning or other uses similarly involving the receipt or distribution of vehicles, materials, or merchandise, there shall be provided and maintained on the lot an adequate space for standing, loading and unloading services in order to avoid undue interference with public use of the streets and alleys.

- (1) Such loading and unloading space, unless otherwise adequately provided for, shall be an area 12 feet by

50 feet, with a 15-foot height clearance, and shall be provided according to the following schedule.

- (2) Off-street loading spaces shall be provided as appropriate to the functions and scope of operation of individual or groups of buildings and uses.

(3) Off-street loading spaces shall be designed and constructed so that all maneuvering to park and unpark is within the property lines of the premises. Loading spaces shall be provided so as not to interfere with the free, normal movement of vehicles and pedestrians on public rights-of-way.

Square Footage of Facility	Number of Spaces
0--10,000	1
10,001--100,000	1 space for the first 10,001 square feet plus 2 additional spaces for each additional 40,000 square feet in excess of 10,001 square feet
100,001--500,000	3 spaces for the first 100,001 square feet plus 1 additional space for each 60,000 square feet in excess of the 100,001 square feet
Over 500,000	7 spaces for the first 500,001 square feet plus 1 space for each additional 100,000 square feet in excess of 500,001 square feet

Storage and parking of trailers and commercial vehicles.

(1) Commercial vehicles which require commercial driver's licenses and trailers of all types, including travel, boat, camping and hauling, shall not be parked or stored on any lot occupied by a dwelling or any lot in any residential district except in accordance with the following requirements:

- (a) A commercial vehicle shall be of a size no greater than six tons in gross vehicle weight.

- (b) Travel trailers, hauling trailers, or boat trailers shall be permitted if parked or stored in the side or rear yards; and/or in the driveway area, for single-family homes but shall not be parked or stored on vacant lots.

- (c) A travel trailer shall not be occupied either temporarily or permanently while it is parked or stored in any area, except in a travel trailer park authorized under this chapter.

(2) Nothing contained herein shall prevent more stringent storage and/or parking requirements by ordinance, restrictive covenants or other measures.

ARTICLE VI. EXCEPTIONS AND MODIFICATIONS

Front yard setbacks for dwellings.

The setback requirements of this chapter for dwellings shall not apply to any lot where the average existing building setback line on lots located wholly or in part within 100 feet on each side of such lot, within the same block and zoning district and fronting on the same side of the street as such lot is less than the minimum setback required. In such cases the setback on such lots may be less than the required setback, but not less than the average of the existing setbacks on the aforementioned lots, and in no case less than ten feet from the street right-of-way.

Height limits.

(a) Generally. The height limitations of this chapter shall not apply to church spires, belfries, cupolas and domes not intended for human occupancy; monuments, water towers, observation towers, transmission towers, chimneys, smokestacks, conveyors, flagpoles, radio towers, television towers, masts, aerials and similar structures.

(b) Visibility at street intersections. On a corner lot in any district, nothing shall be erected, placed, planted or allowed to grow in such a manner as to materially impede vision between a height of 2 1/2 and ten feet above the centerline grades of the intersecting streets in the area bounded by the street lines of such corner lots and a line joining points along such street lines 25 feet from the point of the intersection.

Group projects.

A group project, including, but not limited to, residential, commercial, industrial, educational, medical, religious or civic uses, of two or more buildings to be constructed on a plot of land of at least two acres not subdivided into customary streets and lots, and which will not be so subdivided, may be constructed provided:

- (1) Such uses are limited to those permitted within the district in which the project is located.
- (2) The overall intensity of land use is no higher, and the standard of open space is no lower, than that permitted on the district in which the project is located.
- (3) The distance of every building from the nearest property line shall meet the front yard setback and side yard requirements of the district in which the project is located.
- (4) The building heights do not exceed the height limits permitted in the district in which the project is located.

Waiver of parking requirements in the central business district.

Minimum off-street automobile parking and storage space requirements as set forth herein may be waived in their application to the central business district (C-1).
(Ord. No. 6-1968, § 9.5, 5-7-68)

Mobile home parks.

Within the R-4 residential district, planned mobile home parks are conditional uses, provided the following regulations are met:

(1) Purpose and scope. The purpose of this section is to provide locations within the city limits for development of planned mobile home parks. These areas should be developed and so located as to provide safe and sanitary living conditions for park occupants, and to be convenient to shopping centers, schools and other community facilities.

(2) Application for a mobile home park.

a. It shall be unlawful for any person to place or maintain any mobile home for living or sleeping purposes on any premises in the city limits unless it be contained within a properly permitted and planned mobile home park pursuant to the provisions of this section.

b. The planning commission may recommend approval of a planned mobile home park when all provisions of this section have been met. An application and all accompanying plans and supporting data shall be filed in triplicate with the planning commission at least two weeks prior to a regular meeting of the commission. The application shall be in writing and shall contain:

1. The name and address of the applicant;

2. The location and description of the boundaries of the property proposed for planned mobile home park development;

3. A complete mobile home park plan showing all existing conditions and proposed site development as required in this section, including preliminary plans of all buildings, improvements and facilities constructed or to be constructed within the mobile home park on a topographic map; and

4. Any other information requested by the planning commission to determine the proposed park's compliance with legal requirements, the effect which the proposed park may have on its environment and the compatibility of the adjacent area for park development within the framework of long-range development objectives.

(3) Dimensional and site development requirements (mobile home park plan). The mobile home park plan shall show or propose all requirements listed in this section, and, in addition, all such requirements shall be complied with before a certificate of occupancy can be issued.

(4) Minimum number of mobile home spaces. No park shall be permitted with less than 15 spaces.

(5) Required lot (mobile home space) area. Well-defined mobile home spaces shall be provided, consisting of a minimum of 3,000 square feet for each space.

(6) Yard requirements. Each space shall be at least 40 feet wide and clearly defined. There shall be at least a 15-foot side yard and a 15-foot clearance between mobile homes, including mobile homes parked end-to-end. No mobile home shall be located closer than 15 feet to any building within the park, within 20 feet of any exterior street or boundary line of the park.

(7) Drainage. The park shall be located on a well-drained and properly graded site. Necessary site drainage improvements as approved by the city shall be provided.

(8) Interior drives and walkways. All mobile home spaces shall abut upon a hard-surfaced drive no less than 20 feet in width. Interior drives must be not less than 20 feet in width and shall have unobstructed access to a public street or highway in accordance with ordinances of the city. Hard-surfaced walkways no less than three feet wide shall be provided from mobile home spaces to service buildings. All interior drives and walkways within the park shall be adequately maintained by the owner.

(9) Off-drive parking. Each mobile home space shall be provided with at least two off-drive parking spaces, paved and adequately marked.

(10) Signs. (See sign ordinance provisions herein) The following nonflashing and nonanimated signs are permitted under the conditions specified:

a. Park identification signs. One park identification sign shall be permitted not to exceed 24 square feet in area for the purpose of denoting the name of the mobile home park and said sign shall not exceed six feet in height.

b. Mobile home identification signs. One mobile home identification sign not exceeding one square foot in area shall be permitted for each mobile home. Such sign shall indicate only the name and address of the occupant of the mobile home.

c. No sign shall be located so as to impede vehicular visibility at any intersection of street lines with one another or the edge of driveways with street lines.

(11) Improvement to trailers.

a. No permanent addition of any kind shall be built onto or become a part of any mobile home.

b. The owner of a mobile home park shall provide a concrete patio of at least two inches thick on the access side of the mobile home so as to lie beneath both doors, provided, however, such patio shall be a minimum of eight feet in width and a minimum of 20 feet in length.

(12) Special conditions and safeguards. In recommending any planned mobile home park, the planning commission may attach special conditions and safeguards to protect both the occupants of the park and the occupants of surrounding property, including such matters as protection against noise, lights and dust. Where required to serve these ends, walls, plantings, surfacing or other natural or artificial means for protection may be required as a part of such special conditions on which the recommendation for a mobile home park is based. Failure to meet such conditions shall be grounds for refusal of issuance of a certificate of occupancy.

(13) General requirements.

a. Minimum size of mobile homes. No mobile home shall be placed in a planned mobile home park which has less than 250 square feet of floor space and does not contain a built-in bathroom with water closet, lavatory and shower or tub which are in working condition.

b. Water, sewerage and electricity. Each mobile home space shall be provided with and each mobile home connected to the sanitary sewerage and water supply systems of the city. Electrical outlets shall be provided as specified by the city building inspector.

c. Lighting. All interior drives and walkways within the park shall be lighted at night with lighting as approved by the city.

d. Refuse collecting facilities. Individual refuse containers shall be used on each trailer site. Stands must be provided to hold the containers upright or buried.

e. Recreation area. At least five percent of the gross land area shall be set aside for recreational use.

(14) Existing parks. All existing mobile home parks in the city at the time of adoption of the ordinance from which this section is derived are required to comply with the following regulations:

a. Existing mobile home parks. Existing parks which are determined to be suitably located but do not meet the requirements of this section shall be given one year to be brought into conformity with all provisions of this section.

ARTICLE VII. ADMINISTRATION AND ENFORCEMENT

DIVISION 1. GENERALLY

Preamble and enactment clause.

It is the intent of this article to establish minimum procedures governing the exercise of zoning power. The purpose of these minimum procedures is to assure that due process is afforded to the general public when the city regulates the use of property through the exercise of zoning power. Nothing in this article shall be construed to invalidate any zoning or rezoning decision made by the city prior to January 1, 1986.

(Ord. No. 6-1968, § 14.1, 5-7-68; Ord. No. 1-1986, § 1, 1-13-86)

Duties and powers of the building inspector.

It shall be the duty of the building inspector and he shall have empowered to:

- (1) Require that the application for a building permit and the accompanying plot plan contain all the information necessary to enable him to ascertain whether the proposed building complies with provisions of this chapter.
- (2) Keep a permanent record of all plans and applications for permits, and all permits issued with notations as to special conditions attached thereto. All records should be open for public inspection and shall be the property of the city.
- (3) Require that no building permit shall be issued until the building inspector has certified that the proposed building, alteration or use complies with all the provisions of this chapter.
- (4) Conduct inspections and surveys to determine compliance or noncompliance with the terms of this chapter. In carrying out such surveys, the building inspector or his representative may enter upon any land or buildings.
- (5) Make written orders requiring compliance with the provisions of this chapter to be served personally or by certified or registered mail.
- (6) Maintain a map showing the current zoning classification of all land.
- (7) Maintain a map and register showing the registration, identity, location and type of all nonconforming uses.
- (8) Participate in all proceedings before the board of appeals, present facts and information to assist the board in reaching a decision, resist and oppose any deviations from standard provisions of this chapter and have decisions of the board reviewed in a court of proper jurisdiction when, in the judgement of the building inspector, such review is desirable.

Appeal of the building inspector's decision.

Any applicant who is aggrieved by or disagrees with the decision of the building inspector with respect to a permit application may appeal such decision to the planning commission within 30 days of the date of the decision. Appeals shall be in writing and shall be filed with the city clerk, with a copy to be provided to the building inspector. Any appeal shall specify the nature of the permit sought, the disputed decision of the building inspector and the grounds for the appeal.

Permits.

No building shall be constructed or altered, or the use of any building and/or land changed, until a permit has been secured from the building inspector. Applicable local, state and federal laws, standards, codes, regulations, ordinances or other applicable provisions may apply as to the imposition of fines for failure to comply with this section. Upon completion of the work authorized by any permit, the applicant for the permit shall notify the building inspector of such completion. No permit shall be considered complete or permanently effective until the building inspector has noted on the permit that the work has been inspected and approved and is in conformity with the provisions of this article.

Application for permits.

All applications for building permits shall be made in writing by the owner of the subject property, their lawful tenants, or their authorized agent, and shall be filed with the building inspector. The application shall include the following information:

- (1) A statement as to the proposed use of the building and/or land;
- (2) Working plans drawn to scale, showing the location of the building in relation to property and road lines;
- (3) The name and address of the surveyor or other person competent to give such location and to stake the road lines.

Business Licenses – Eating establishments

The business license issuer shall not issue any city license or occupation tax certificate for a restaurant, itinerant vending, lunch wagon or other food preparation establishment unless a copy of a valid certificate issued by the county health department for the operation of the business has been filed with the city by the applicant.

DIVISION 2. PLANNING COMMISSION*

*Editor's note: Sections 1--4 of Ord. No. 1-2000, adopted Jan. 10, 2000, state: "Section 1. The code of the City of Cedartown shall stand amended as to Chapter 94 thereof entitled "Zoning." In Article 7, entitled "Administration and Enforcement", division 3 of Article 7 involves the board of adjustments and section 94-262 creates officers and meeting requirements of the board. These sections are hereby abolished and deleted.

Section 2. All references in the zoning ordinance, (Chapter 94) or any other areas of the code of ordinances of the City of Cedartown to the "Board of Adjustments" are deleted and abolished, it being the intention of this ordinance to allow the planning commission, already created by the city, to act in connection with all matters which could formerly have been construed to be within the jurisdiction and responsibility of the board of adjustments. Hereafter, any and all jurisdiction and authority previously vested in the board of adjustments, shall after the effective date of this ordinance, be fully and conclusively vested in the Cedartown Planning Commission.

Section 3. Further evidencing the intention of the city commission as set forth in section 2 hereof, section 94-263, 94-264, and all matters concerning appeals and hearings as contained thereafter shall be incorporated into, and be vested fully, with the Cedartown Planning Commission to use said procedures, hearings and standards as might be applicable in its deliberations of handling all appeals to be conducted under the Code of the City of Cedartown for matters of zoning, building enforcement, variances, and related powers and duties.

Section 4. In accomplishing the intention of the commission, the codifiers of the city code, being Municipal Code Corporation, may merge, consolidate, or delete duplicating sections for hearings and appeals as might exist within Divisions 2 and 3 of Article VII. However, the powers and duties of administrative review, special exceptions and variances as contained in Section 94-263 shall be saved from repeal, and shall be fully vested in the planning commission, together with the standards for decisions on zoning matters as contained in section 94-264 of the code, which are also saved from repeal."

Cross references: Boards, authorities and commissions, § 2-56 et seq.; duties of the planning commission pertaining to buildings and building regulations, § 18-86 et seq.

Subdivision I. In General

Establishment.

In order to provide and accomplish a coordinated and harmonious development of the city, in accordance with the city's existing and future needs, and in order to promote public health, safety, morals, order, convenience, prosperity and the general welfare, as well as efficiency and economy in development, the city planning commission, referred to in this division as the "commission," is hereby reestablished.

Composition; appointment of members.

The planning commission shall consist of five members. All five members shall be appointed by the city commission, in conjunction with the city manager. All members shall be residents of the city.

Terms and removal of members; vacancies.

The terms of the members of the planning commission shall be for overlapping terms of three years. One member shall be appointed for one year, two members for two years and two members for three years, and any successive appointments

shall be for a period of three years. Any vacancy in membership which shall occur among the present members of the commission shall be filled for the remainder of the unexpired term by the city commission and the city manager. The city commission and city manager shall also have the authority to remove any city-appointed member for cause, on written notice and charges, after a public hearing is held.

Officers; rules of procedure; open meetings and records.

- (a) The commission shall select its chairman from among its members. The term of the chairman shall be one year, and he shall be eligible for reelection after the expiration of this term. The commission shall also appoint a secretary to record the minutes of each meeting, hearing or any other proceeding of the commission. The secretary shall also serve for a period of one year and shall be eligible for reelection after the expiration of this term.
- (b) The commission shall make its own policies and procedures to govern the conduct of meetings and hearings. Copies of these policies and procedures shall be available to the public.
- (c) All meetings of the commission at which any official action is taken shall be open to the public, and all records of the commission shall be public records.

Powers and duties, jurisdiction.

The commission shall have all powers, duties and responsibilities as set forth in the Georgia Planning Act, as amended, O.C.G.A. § 36-70-1 et seq., including, but not limited to, the power to consider applications for rezoning a particular district within the corporate limits of the city, the power to amend the provisions of this chapter as needed and the power to make recommendations of the city commission concerning rezoning requests and ordinance amendments.

Appeals from decisions of planning commission.

Any person, firm or corporation aggrieved by any decision of the planning commission may appeal that decision, within fifteen days of the date of the written decision of the planning commission. Failure to properly appeal the written decision of the planning commission within this time period shall terminate any proceedings in which the planning commission has jurisdiction, and the decision of the planning commission shall be final; with the exception of zoning matters, since the commission merely recommends to the city commission its position in certain zoning requests under **section 94-234**. The city commission has exclusive jurisdiction to take all final actions relating to the recommendations of the planning commissions affecting zoning pursuant to this chapter, applying all standards and procedures promulgated pursuant to this code and any regulations adopted hereunder.

(Ord. No. 1-2000, § 5, 1-10-00)

Secs. 94-207--94-230. Reserved.

Subdivision II. Amendments

Applications; information required; forms; fees.

- (a) Any owner of property within the corporate limits of the city who wishes to have the zoning classification of his property changed to another classification shall apply in writing with the city clerk for rezoning. Such application shall consist of the following information: the name of the applicant, his current address and telephone number, a legal description of the property sought to be rezoned, all record owners of such property, the present zoning classification, the requested zoning classification, the present and proposed future use of the property and a brief description of the reason for the proposed zoning change. Such application shall be signed by the applicant under oath. If the applicant and property owner are not the same person, the applicant shall provide a signed authorization from the property owner or, if the applicant is an attorney representing the property owner, an authorization of attorney form.

(b) The city clerk shall maintain copies of forms for applicants for rezoning to complete and submit to request a zoning change. Applicants shall be encouraged, but not required, to use such forms, but if the application does not contain the information required in this section, the commission may refuse to consider it until all information is properly provided.

(c) The applicant shall also pay a filing fee as set forth in appendix C of this Code to the city clerk at the time the application is filed, in order to defray the reasonable costs of processing the application.

Notice of hearing.

(a) The planning commission shall hold a hearing on any proposed amendments to this chapter or any applicant's request for rezoning of property within the city. Notice of such a hearing shall be given to the public no later than 15 days before such hearing is to be conducted, with such notice to be published in the legal notices section of the Cedartown Standard.

(b) In addition to public notice as required by subsection (a) of this section, the building inspector shall place or cause to be placed on the subject property a sign indicating that a request for a zoning change has been filed. Such sign shall indicate the name of the applicant, the property sought to be rezoned, both the present zoning classification and the requested zoning classification and the present and proposed future use of the property. Such sign shall be placed on the subject property no later than 15 days before the hearing conducted by the commission.

Conduct of hearing.

All hearings before the commission under this chapter shall be conducted in accordance with the policies and procedures adopted by the commission by resolution and incorporated into this section by reference. All hearings shall be open to the public.

Recommendation of planning commission; written notice to applicant.

Within a reasonable time after a hearing, the commission secretary shall prepare and submit the necessary minutes, evaluations and/or recommendations to the city commission prior to its next scheduled meeting date. The planning commission shall also provide written notice of its recommendation to the applicant, and inform him of the reasons for the recommendation. The commission shall also inform the applicant that the recommendation is not a final decision on the rezoning request and that only the city commission has the authority to make such a final decision.

City commission action on recommendation.

The city commission shall consider the recommendation of the planning commission under this division at its next regularly scheduled meeting, provided that the recommendation is received by each commission member at least ten days before the city commission meeting is to be held.

Limitations on application.

No application for rezoning under this division which requests the same relief with regard to the same property shall be received or heard by the commission for a period of 12 months following the date of the commission's previous decision, unless the commission, in its discretion, grants the applicant a rehearing.

DIVISION 3. APPEALS, VARIANCES, AND SPECIAL EXCEPTIONS

Subdivision I. In General

Editor's note: Ord. No. 1-2000, § 1, adopted Jan. 10, 2000, repealed §§ 94-261 and 94-262, which pertained to establishment, membership, officers and meetings of the former board of adjustments, and derived from Ord. No. 6-1968, §§ 11.1, 11.2, adopted May 7, 1968.

Powers and duties.

The planning commission shall have the following powers and duties:

- (1) Administrative review. To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the building inspector in the enforcement of this chapter.
- (2) Special exceptions. To hear and decide special exceptions to the terms of this chapter upon which the planning commission is required to pass under this chapter.
- (3) Variances. To authorize upon appeal in specific cases a variance from the terms of the chapter that will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this chapter will, in an individual case, result in practical difficulty or unnecessary hardship, so that the spirit of this chapter shall be observed, public safety and welfare secured and substantial justice done. The existence of a nonconforming use of neighboring land, buildings or structures in the same district or of permitted or nonconforming uses in other districts shall not constitute a reason for the requested variance. Such variance may be granted in an individual case of unnecessary hardship upon a finding by the planning commission that all of the following conditions exist:
 - a. There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape or topography.
 - b. The application of this chapter to this particular piece of property would create an unnecessary hardship.
 - c. Such conditions are peculiar to the particular piece of property involved.
 - d. Relief, if granted, would not cause substantial detriment to the public good or impair the purposes and intent of this chapter, provided, however, that no variance may be granted for a use of land or building or structure that is prohibited by this chapter.
- (4) Time limitations. Any and all variances granted under this section shall be governed by the time limitations for acting upon the granting of a variance, as contained in **section 94-293**.
(Ord. No. 6-1968, § 11.3, 5-7-68; Ord. No. 7-1989, § 3, 3-13-89; Ord. No. 1-2000, §§ 3, 4, 1-10-00)

Standards for decisions.

In any instance where the planning commission is required to consider an exception, conditional use or variance in this chapter or the zoning map in accordance with the provisions of this chapter, the planning commission shall, among other things:

- (1) Assure itself that the proposed change is consistent with the spirit, purpose and intent of this chapter and consider the effect upon the public interest of granting or denying the application.
- (2) Determine that the proposed change will not substantially injure or detract from the use of neighboring property or from the general character of the neighborhood, and that the use of the property adjacent to the area included in the proposed change or plan is adequately safeguarded.
- (3) Determine that the proposed change will serve the best interests of the city, the convenience of the community where applicable and the public welfare.

(4) Consider the unnecessary hardship which will or may be inflicted upon the applicant by denial of his application.

(5) Consider the presence or absence in the neighborhood of conditions or uses which are the same or similar in character to the condition or use for which the applicant seeks approval.

(6) Consider the effect of the proposed change upon the logical, efficient and economical extension of public services and facilities such as water, sewers, police and fire protection and public schools, and assure adequate arrangements for sanitation in specific instances.

(7) Safeguard the development of highway frontage insofar as possible so as to limit the total number of access points and encourage the frontage of buildings parallel to marginal roads or on roads perpendicular to the highway.

(8) Consider the suitability of the proposed location for an industrial or commercial use with respect to probable effects upon highway traffic, and assure adequate access arrangements in order to protect major highways from undue congestion and hazard.

(9) Ascertain the adequacy of sanitation and public safety provisions, where applicable, and require a certificate of adequacy of sewage and water facilities from the department of health of the county in any case required in this chapter as deemed advisable.

(10) Impose such conditions, in addition to those required, as are necessary to assure that the general purpose and intent of this chapter are complied with, which conditions may include, but are not limited to, harmonious design of buildings, planting and its maintenance as a sight and sound screen, and the minimizing of noxious, offensive or hazardous elements.

(Ord. No. 1-2000, §§ 3, 4, 1-10-00)

Subdivision II. Appeals and Hearings

Cause; notice.

(a) Appeals to the planning commission may be taken by any person aggrieved or by any officer, department, board or bureau in the city affected by any decision of the building inspector. Such appeal shall be taken within 60 days, by filing with the building inspector and with the planning commission a written notice of appeal specifying the grounds thereof. The building inspector shall forthwith transmit to the planning commission all papers constituting the record upon which the action appealed from was taken.

(b) The planning commission shall fix a reasonable time for the hearing of appeals or other matters referred to it, and give at least 15 days' public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. Upon a hearing, any party may appear in person, or by agent or attorney, and may present such evidence as may be relevant to assist the board in making its decision.

(Ord. No. 6-1968, § 11.4, 5-7-68; Ord. No. 1-2000, §§ 3, 4, 1-10-00)

Application; information required; forms; fees.

(a) Any person wishing to apply to the planning commission for a variance from the strict terms of this chapter shall do so in writing and provide the following information: The address for which the variance is sought, the zoning district, the

present and intended uses of the property, the name, address and phone number of the property owner and applicant, and a written statement as to why application of this chapter to this particular piece of property would create an unnecessary hardship. The applicant shall also state which criteria for the granting of a variance would be satisfied under section 94-263.

(b) The city clerk shall maintain on file a form for the use in applying for a variance from the strict terms of this chapter. Each applicant shall be encouraged, although not required, to use a form to be provided by the city clerk to apply for a variance before the planning commission. The planning commission may refuse to consider any application for a variance that does not contain the information required by this section.

(c) The applicant shall pay a filing fee as set forth in appendix C of this Code to the city clerk at the time the application is filed, in order to defray the reasonable costs of processing the application.
(Ord. No. 1-2000, §§ 3, 4, 1-10-00)

Limitations on appeals and variances.

No appeal or request for a variance which requests the same relief with regard to the same property shall be received or heard by the planning commission for a period of 12 months following the date of the planning commission's decision concerning a prior identical request unless the applicant or requesting party is granted a rehearing in the discretion of the planning commission.
(Ord. No. 1-2000, §§ 3, 4, 1-10-00)

Stay of proceedings.

An appeal stays all legal proceedings in furtherance of the action appealed from, unless the building inspector certifies to the planning commission, after the notice of appeal has been filed with him, that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life and property. In such case, proceedings shall not be stayed other than by a restraining order, which may be granted by the planning commission or by a court of record on application, on notice to the building inspector and on due cause shown.
(Ord. No. 6-1968, § 11.5, 5-7-68; Ord. No. 1-2000, §§ 3, 4, 1-10-00)

Decisions.

(a) In exercising its powers, the planning commission may, in conformity with the provisions of this chapter, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination of the building inspector, and to that end shall have all the powers of the building inspector and may issue or direct the issuance of a building permit or variance.

(b) The concurring vote of the three members of the planning commission shall be necessary to reverse any order, requirement, decision or determination of the building inspector, or to decide in favor of the applicant on any matter upon which it is required to pass under this chapter to effect any variance of this chapter.

(c) On all appeals, applications and other matters brought before the planning commission, such board shall inform, in writing, all the parties involved of its decisions and the reasons therefor.
(Ord. No. 6-1968, § 11.6, 5-7-68; Ord. No. 1-2000, §§ 3--5, 1-10-00)

Expiration of special exceptions and variances.

Unless otherwise specified by the planning commission, a special exception or variance shall expire if the applicant fails to obtain a building permit thereunder within six months from the date of authorization thereof.

Reserved.

Editor's note: Ord. No. 1-2000, § 5, adopted Jan. 10, 2000, repealed § 94-297, which pertained to appeals from decisions of the former board of adjustments and derived from the original codification.

Advisory opinion.

In the exercise of the powers vested by this division, the planning commission may, in its discretion, refer to any other agency of the city, county or state for an advisory opinion on any matter properly before it with respect to which it believes that such advisory opinion would be helpful to it in reaching its own determination.

ARTICLE VIII. STANDARDS FOR TELECOMMUNICATIONS ANTENNAS AND TOWERS*

*Cross references: Telecommunications services franchises and licenses, § 70-91 et seq.

Purposes.

This article is designed and intended to balance the interests of the residents of the city, telecommunications providers, and telecommunications customers in the siting of telecommunications facilities within the city so as to protect the health, safety and integrity of residential neighborhoods and foster, through appropriate zoning and land use controls, a competitive environment for telecommunications carriers that does not unreasonably discriminate among providers of functionally equivalent personal wireless services and shall not prohibit or have the effect of prohibiting the provision of personal wireless services, and so as to promote the city as a proactive city in the availability of personal wireless telecommunications service. To that end, this article shall:

- (a) Provide for the appropriate location and development of telecommunications facilities in the city;
- (b) Protect the city's structures and natural environment by promoting compatible design standards for telecommunications facilities;
- (c) Minimize adverse visual impacts of telecommunications facilities through careful design, siting, landscape screening and innovative camouflaging techniques;
- (d) Avoid potential damage to adjacent properties from tower or antennas failure through engineering and careful siting of telecommunications tower structures and antennas;
- (e) Maximize use of any new and existing telecommunications towers so as to minimize the need to construct new towers and minimize the total number of towers throughout the city;
- (f) Maximize and encourage use of alternative telecommunication tower structures as a primary option rather than construction of additional single-use towers; and
- (g) Encourage and promote the location of new telecommunications facilities in areas which are not zoned for residential use.

Definitions.

As used in this article, the following terms shall have the meanings indicated:

Accessory structures means any structures or components used in direct support of a telecommunications facility.

Antenna means any exterior apparatus designed for the sending and/or receiving of electromagnetic waves for telephonic, radio, television, or personal wireless services. For the purposes of this article the term "antenna" does not include any

tower and antenna under 30 feet in total height which is owned and operated by an amateur radio operator licensed by the Federal Communications Commission, any device designed for over-the-air reception of radio or television broadcast signals, multichannel multi-point distribution service or direct broadcast satellite service, or any cable television headerd or hub towers and antennas used solely for cable television services.

Building inspector means the building inspector for the City of Cedartown.

Governing body means the city commission for the City of Cedartown.

Macro telecommunications facilities are those which are located on existing buildings, poles or other existing support structures and which project more than three feet above the top of the structure but no more than ten feet above the roof line, parapet or top of the structure. Macro telecommunication facilities may exceed the height limitation specified for the zoning district.

Micro telecommunications facilities are those which are located on existing buildings, poles or other existing support structures where antennas do not project more than three feet above the top of the structure and there are no more than six antennas per site.

Monopole tower means a telecommunications tower consisting of a single pole, constructed without guy wires or ground anchors.

Telecommunications facilities refers to antennas and towers, either individually or together.

Tower means a structure, such as a lattice tower, guy tower, or monopole tower, constructed as a free-standing structure or in association with a building, other permanent structure or equipment, on which is located one or more antennas intended for transmitting or receiving analog, digital, microwave, cellular, telephone, personal wireless service or similar forms of electronic communication. The term includes microwave towers, common carrier towers, and cellular telephone towers.

Exclusions.

The following shall be exempt from this article:

- (a) Any tower and antenna under 30 feet in total height which is owned and operated by an amateur radio operator licensed by the Federal Communications Commission;
- (b) Any device designed for over-the-air reception of television broadcast signals, multichannel multi-point distribution service or direct broadcast satellite service; or
- (c) Any telecommunications facilities located on property owned, leased or otherwise controlled by the city provided a license or lease authorizing the telecommunications facility has been approved by the governing body;
- (d) Any cable television headerd or hub towers and antennas used solely for cable television services.

Placement of telecommunications facilities by zoning district.

(a) In light industrial (IND-L) and heavy industrial (IND-G) zoning districts, micro and macro telecommunications facilities shall be allowed as a use by right. Telecommunications towers designed and intended to accommodate at least one user are permitted as a use of right up to a height of 80 feet following design review by and receipt of a building permit from the building inspector. Telecommunications towers designed and intended to accommodate at least two users are permitted as a use of right up to a height of 100 feet following design review by and receipt of a building permit from the building inspector. Telecommunications towers designed and intended to accommodate at least three users are

permitted as a use of right up to a height of 120 feet following design review by and receipt of a building permit from the building inspector.

(b) No telecommunications facilities shall be permitted in any residential areas.

(c) Telecommunications facilities outside the guidelines listed above may only be built after approval of a variance granted by the building inspector.

Co-location; preferred and disfavored location sites.

(a) All applicants shall make a reasonable attempt to co-locate on existing towers, buildings, or other tall structures. Furthermore, applicants shall be willing to allow other uses to co-locate on the proposed tower site in the future, subject to engineering and feasibility factors, frequency considerations, and proper compensation from the additional user. Such compensation shall be determined from average lease rates paid by the applicant for comparable co-location sites in Polk County and contiguous counties, to be provided by the applicant. Such information shall, however, remain confidential and shall not be disclosed by any city official.

(b) Preferred location sites.

(1) Co-location sites. Any existing telecommunications towers currently being used for transmitting or receiving analog, digital, microwave, cellular, telephone, personal wireless service or similar forms of electronic communication shall be a preferred location site regardless of the underlying zoning designation of the site, provided, however, that locations which meet this criteria shall be subject to the design and siting components of this article and co-location sites shall not become an "antenna farm" or otherwise be deemed by the building inspector or the governing authority to be visually obtrusive.

(2) Publicly-used structures. Publicly-used structures are preferred locations throughout the city because they appear in virtually all neighborhoods, are dispersed throughout the city, and due to their institutional or infrastructure uses are generally similar in appearance to or readily adaptable for telecommunications facilities. Therefore, telecommunications facilities should be less noticeable when placed on publicly-used structures than when placed on commercial or residential structures. Publicly-used structures include, but are not limited to, facilities such as police or fire stations, libraries, community centers, civic centers, courthouses, utility structures, water towers, schools, hospitals, clock or bell towers, light poles and churches.

(3) Industrial and commercial structures. Wholly industrial and commercial structures such as warehouses, factories, retail outlets, supermarkets, banks, garages, or service stations shall be preferred locations particularly where existing visual obstructions or clutter on the roof or along a roof line can and will be removed as part of the installation of the telecommunications facility.

(4) Mixed use buildings in high density districts. Mixed use buildings (housing above commercial or other nonresidential space) are also preferred location sites.

(c) Disfavored location sites. Any single-family, multi-family, or neighborhood commercial structure or site shall be disfavored sites for the location of telecommunications facilities.

Requirements for telecommunications facilities.

(a) General requirements for all telecommunications facilities. The requirements set forth in this section shall govern the location and construction of all telecommunications facilities governed by this article.

(1) Building codes and safety standards. To ensure the structural integrity of telecommunications facilities, the owner of a telecommunications facility shall ensure that it is maintained in compliance with standards contained in applicable local building codes and the applicable standards for such telecommunications facilities, as amended from time to time. Owners of telecommunications facilities shall conduct periodic inspections of such facilities at least once every

year to ensure structural integrity. Inspections shall be conducted by a qualified, independent engineer licensed to practice in Georgia. The results of such inspection shall be provided to the building inspector, within 30 days after the inspection. Failure to provide said reports could result in revocation of any permits or licenses previously granted to the owner by the city.

(2) Regulatory compliance.

a. All telecommunications facilities must meet or exceed current standards and regulations of the FAA, the FCC and any other agency of the state or federal government with the authority to regulate telecommunications facilities. If such standards and regulations are changed, then the owners of the telecommunications facilities governed by this article shall bring such telecommunications facilities into compliance with such revised standards and regulations within the date established by the agency promulgating the standards or regulations.

b. Owners of telecommunications facilities shall provide documentation showing that each telecommunications facility is in compliance with all applicable federal and state requirements. Evidence of compliance must be submitted every 12 months to the building inspector. Failure to provide this information could result in revocation of any permit or license previously granted to the owner by the city.

(3) Security. All telecommunications facilities shall be equipped with an appropriate anti-climbing device or other similar protective device to prevent unauthorized access to the telecommunications facility.

(4) Lighting. No illumination is permitted on telecommunications facilities unless required by the FCC, FAA or other state or federal agency of competent jurisdiction or unless necessary for air traffic safety. If lighting is required or necessary, the building inspector may review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding uses and views.

(5) Advertising. No advertising is permitted on telecommunications facilities.

(6) Visual impact.

a. Telecommunications facilities shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA or other applicable federal or state agency, be painted a neutral color or painted and/or textured to match the existing structure so as to reduce visual obtrusiveness.

b. If an antenna is installed on a structure other than a tower, the antenna and associated electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible. Roof-mounted antennas shall be made visually unobtrusive by screening to match existing air conditioning units, stairs, elevator towers or other background.

c. Where feasible, telecommunications facilities should be placed directly above, below or incorporated with vertical design elements of a building to help in camouflaging.

d. Telecommunications facilities shall not be placed in a direct line of sight with historic structures as designated by the commission or by any state or federal law or agency.

e. Any equipment shelter or cabinet that supports telecommunications facilities must be concealed from public view, made compatible with the architecture of the surrounding structures, or placed underground. Equipment shelters or cabinets shall be screened from public view by using landscaping or materials and colors consistent with the surrounding backdrop. The shelter or cabinet must be regularly maintained by the owner of the telecommunications facility.

(7) Landscaping.

a. Landscaping shall be used to effectively screen the view of the telecommunications facility from adjacent public ways, public property and residential property, to the extent feasible.

b. Native vegetation on the site shall be preserved to the greatest practical extent. The applicant shall provide a site plan showing any existing significant vegetation to be removed, and vegetation to be replanted to replace that which is removed.

c. The building inspector may waive or modify the landscaping requirement where lesser requirements are desirable for adequate visibility for security purposes, for continued operation of existing bona fide agricultural or forest uses such as farms, nurseries and tree farms or where an antenna is placed on an existing structure. In certain locations where the visual impact of the tower would be minimal, such as remote agricultural or rural locations or developed heavy industrial areas, the landscaping requirement may be modified or waived in the discretion of the building inspector.

(8) Maintenance impacts. Equipment at a transmission facility shall be automated to the greatest extent possible to reduce traffic and congestion. Where the site abuts or has access to a collector or local street, access for maintenance vehicles shall be exclusively by means of the collector or local street.

(9) Principal, accessory and joint uses.

a. Accessory structures used in direct support of a telecommunications facility shall be allowed but not be used for offices, vehicle storage or other outdoor storage. Mobile or immobile equipment not used in direct support of a telecommunications facility shall not be stored or parked on the site of the telecommunications facility.

b. Telecommunications facilities may be located on sites containing another principal use in the same buildable area.

(10) Lot size and setbacks.

a. The following setback requirements shall apply to all telecommunications facilities, provided however, that the building inspector may reduce the standard setback requirements of this section if the goals of this article would be better served thereby.

1. Telecommunications towers must be set back a distance equal to the height of the tower from any off-site residential structure.

2. Towers, guy wires and accessory facilities must satisfy the minimum zoning district setback requirements.

3. Telecommunications facilities must be setback from any property line a sufficient distance to protect adjoining property from the potential impact of telecommunications facility failure by being large enough to accommodate such failure on the site, based on the engineer's analysis required in **section 94-356.**

b. For antennas attached to the roof or a supporting structure on a rooftop, a 1:1 setback ratio (example: ten-foot high antenna and supporting structure requires ten-foot setback from edge of roof) shall be maintained unless an alternative placement is shown to reduce visual impact and said placement is approved by the building inspector.

(b) Additional requirements for towers.

(1) Site location and development shall preserve the existing character of the surrounding buildings and land uses and the zoning district as much as possible. Personal wireless telecommunication towers shall be integrated through location and design to blend in with existing characteristics of the site to the extent practical.

(2) Existing on-site vegetation shall be preserved or improved, and disturbance of the existing topography shall be minimized, unless such disturbance would result in less visual impact of the site to the surrounding area.

- (3) At a tower site the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend the tower and related facilities to the natural setting and built environment.
- (4) Towers shall not be located any closer than 1,500 feet from an existing tower unless technologically required or visually preferable.
- (5) When a tower is adjacent to a residential use and located on the ground, it must be set back from the nearest residential lot line a distance at least equal to its total height.
- (6) In no case shall a tower be located in the required front yard, back yard or side yard in a residential district.
- (7) Towers shall not be placed where they will negatively affect historic districts or buildings as designated by the commission or any state or federal law or agency or where they will create visual clutter.
- (8) Towers shall be enclosed by opaque or solid decay-resistant security fencing not less than six feet in height and shall be equipped with an appropriate anti-climbing device or other similar protective device designed to prevent tower access.
- (9) Placement of more than one tower on a lot shall be permitted, provided all setback, design, landscape, and placement requirements are met as to each tower. Structures may be located as close to each other as technically feasible, provided tower failure characteristics of the towers on the site will not lead to multiple failures in the event that one fails.
- (10) The building inspector shall have the discretion to waive the requirements of this subsection where exact compliance would interfere with the function or purpose of a tower, or where compliance would place an unreasonable burden on an owner.

Application procedures.

- (a) General application requirements for all building and special use permits. Application for a building permit or special use permit for any telecommunications facility shall be made to the building inspector by the person, company or organization that will own and operate the telecommunications facility. An application will not be considered until it is complete. The following information shall be submitted for an application to be considered complete when applying for any building permit, special use permit or other permit or variance included in this article:
 - (1) Basic information.
 - a. Site plan or plans to scale specifying the location of telecommunications facilities, transmission building and/or other accessory uses, access, parking, fences, landscaped areas, and adjacent land uses.
 - b. Landscape plan to scale indicating size, spacing and type of plantings required in section _____
 - c. A full description of the environment surrounding the proposed telecommunications facility, including any adjacent residential structures and districts, structures and sites of historic significance, or streetscapes.
 - d. A description of anticipated maintenance needs for the telecommunications facility, including frequency of service, personnel needs, equipment needs, and traffic, noise or safety impacts of such maintenance.
 - e. Detailed construction plans and/or drawings, and a report from a qualified, independent engineer licensed in the State of Georgia, documenting the following:
 1. Telecommunications facility height and design, including technical, engineering, economic, and other pertinent factors governing selection of the proposed design;

2. Total anticipated capacity of the telecommunications facility, including number and types of antennas which can be accommodated;
3. Evidence of structural integrity of the tower structure; and
4. Structural failure characteristics of the telecommunications facility and demonstration that site and setbacks are of adequate size to contain debris.

f. A definition of the area of service to be served by the antenna or tower and whether such antenna or tower is needed for coverage or capacity.

g. Information showing the proposed facility would provide the needed coverage or capacity.

h. If applicant is a firm, corporation, or business entity, the identity of a community liaison officer appointed by the applicant to resolve issues of concern to neighbors and residents relating to the construction and operation of the facility. Include name, address, telephone number, facsimile number and electronic mail address, if applicable.

i. Identification of the geographic service area for the subject installation, including a map showing the site and the nearest or associated telecommunications facility sites within the network, or description of describe the distance between the telecommunications facility sites, and a description of how this service area fits into and is necessary for the service network.

j. Designation of which location preference, identified in **section 94-354(b)**, above, the proposed facility is meeting. If the proposed location is not a preferred location or is a disfavored site, describe: (a) what publicly-used building, co-location site or other preferred location sites are located within the geographic service area. Provide a list (by address with map and parcel number noted) and a map at 1:200 scale of all such buildings within the service area; (b) what good faith efforts and measures were taken to secure each of these preferred location sites; (c) why each such site was not technologically, legally or economically feasible and why such efforts were unsuccessful; and (d) how and why the proposed site is essential to meet service demands for the geographic service area and citywide network.

(2) Five-year plan and site inventory. Each application shall include a five-year facilities plan and site inventory including the following:

a. A list of all telecommunications facility sites, whether such sites are existing, existing to be upgraded or replaced, or merely proposed, within the city limits and within one mile of the city limits and a map showing these sites. The list must include the following information for each site:

1. Street address;
2. Assessor's map and parcel or other applicable ad valorem tax identification number;
3. Zoning district;
4. Type of building (commercial, residential, mixed use) and number of stories;
5. The number of antennas and base transceiver stations per site and the location and type of antenna installation (stand alone rooftop, building facade, etc.) and location of the base transceiver station installation(s);
6. The height from grade to the top of the antenna installation; and
7. The radio frequency range in megahertz, the wattage output of the equipment and effective radiated power.

b. If the applicant does not know specific future tower and antenna site locations but does know of areas where telecommunications facilities may be needed within the next five years to provide service, the applicant shall list the assessor's map and parcel numbers contained within the anticipated geographic service area and identify each geographic service area with a number that will correspond to the future telecommunication facility site.

(3) Additional information requirements for towers.

a. If the proposed site is zoned R-1 through R-4 or C-1, C-2, or C-N, and there are alternative sites in IND-L or IND-G, applicants must justify why those alternate sites have not been proposed. The building inspector will review with special

care justifications that appeal only to undue expense and/or to undue difficulties in entering into a lease agreement. The building inspector shall carefully weigh such claims, and the evidence presented in favor of them, against a project's negative impacts at the proposed site.

b. Applicants must identify all existing towers and all towers for which there are applications currently on file with the building inspector. Applicants must provide evidence of the lack of space on all suitable existing towers to locate the proposed antenna and of the lack of space on existing tower sites to construct a tower for the proposed antenna. If co-location on any such towers would result in less visual impact than the visual impact of the proposed tower, applicants must justify why such co-location is not being proposed. If co-location on any such tower would increase negative visual impact, then the applicant must so state and demonstrate. The building inspector will review with special care justifications that appeal only to undue expense and/or to undue difficulties in entering into a lease agreement. The building inspector shall carefully weigh such claims, and the evidence presented in favor of them, against a project's negative impacts at the proposed site.

c. In all zones, applicants must demonstrate that they cannot provide personal wireless communication service without the use of a telecommunications tower.

d. The applicant shall quantify the additional tower capacity anticipated, including the approximate number and types of antennas. The applicant shall provide a drawing for each tower showing existing and proposed antennas locations. The applicant shall also describe any limitations on the ability of the tower to accommodate other uses, e.g., radio frequency interference, mass height, frequency or other characteristics. The applicant shall describe the technical options available to overcome those limitations and reasons why the technical options considered were not chosen to be incorporated. The building inspector shall approve those limitations if they cannot be overcome by reasonable technical means.

e. The applicant must provide a utilities inventory showing the locations of all water, sewage, drainage and power lines impacting the proposed tower site.

(4) Other information requested by building inspector. The applicant must provide any other information which may be requested by the building inspector to fully evaluate and review the application and the potential impact of a proposed telecommunications facility.

(b) Expedited review for building permits only. When a telecommunications facility will be a use as of right pursuant to section [REDACTED] of this article and requires only a building permit and design review before it may be erected, the building inspector will attempt to expedite review of the application and render a decision on the application within 15 business days after receipt of a complete application.

(c) Special use permits.

(1) A request for a special use permit shall be initiated by application to the building inspector and handled in accordance with the special use permit provision of section [REDACTED] of the Municipal Code. The planning commission may issue a special use permit under this section provided it shall have determined that all of the requirements of section [REDACTED] have been satisfied and, further, that the benefits of and need for the proposed tower are greater than any possible depreciating effects and damage to the neighboring properties.

(2) In granting a special use permit, the planning commission may impose additional zoning conditions to the extent determined necessary to buffer or otherwise minimize adverse effects of the proposed tower or antenna on surrounding properties.

(d) Variances.

(1) An applicant may seek a variance from the terms of this article after the building inspector informs him or her that the proposed site, tower, or any other matter is not in conformity with this article, by filing a written application for a variance with the planning commission. Said application shall contain all of the basic information required by this section for regular applications, as well as the basis for the variance.

(2) When an application for a variance is submitted the building inspector shall place or cause to be placed, a sign on the property where the facility is to be placed notifying the public of the application. In addition, a notice of the planning commission meeting shall be published once a week for two weeks prior to said meeting at which the variance is to be considered. The planning commission shall receive evidence and make a recommendation to grant or deny the variance to the city commission, which shall proceed to consider the application at the next available meeting, but no sooner than ten days after the decision of the planning commission. All proceedings and decisions of either body shall be supported by substantial evidence in a written record. Any parties aggrieved by a decision of either the planning commission or city commission shall have the right to appeal as set forth in section ____.

(3) In considering a variance, both the planning commission and city commission shall consider, but not be limited by the standards contained in **section _____**.

Co-location.

Applicant and owner shall allow other future personal wireless service companies, including public and quasi-public agencies, using functionally equivalent personal wireless technology to co-locate antennas, equipment and facilities on a telecommunications facility unless specific technical constraints prohibit said co-location. Applicant and other personal wireless carriers shall provide a mechanism for the construction and maintenance of shared facilities and infrastructure and shall provide for equitable sharing of costs in accordance with industry standards.

Appeals.

Appeals from any decision of the building inspector may be taken by any person aggrieved or any official of the city affected by the decision of the building inspector. Such appeal shall be to the planning commission pursuant to chapter 94, article VII, division 2 of the Municipal Code. Appeals from any decision of the planning commission may be taken by any person aggrieved or any official of the city affected by the decision of the planning commission and shall be to the city commission in accordance with the above-referenced code sections. Appeals from any decision of the commission shall be made to the superior court within 30 days of the decision. Any decision by the building inspector or by the planning commission denying a request to place, construct or modify a telecommunications facility shall be in writing and supported by substantial evidence in a written record. Any decision by the commission denying or approving a request to place, construct or modify a telecommunications facility shall be in writing and supported by substantial evidence in a written record.

Nuisances.

Telecommunications facilities, including, without limitation, power source, ventilation and cooling, shall be operated at all times so as not to create excessive or unreasonable noise levels. In addition, such facilities shall not be operated so as to cause the generation of heat that adversely affects a building occupant, and shall not be maintained or operated in such a manner as to be a nuisance.

Removal of antennas and towers.

All telecommunications facilities shall be maintained in compliance with standards contained in applicable building and technical codes so as to ensure the structural integrity of such facilities. If upon inspection by the building inspector any such telecommunications facility is determined not to comply with the code standards or to constitute a danger to persons or property, then upon notice being provided to the owner of the facility and the owner of the property if such owner is different, such owners shall have 30 days to bring such facility into compliance. In the event such telecommunications facility is not brought into compliance within 30 days, the city may provide notice to the owners requiring the telecommunications facility to be removed. In the event such telecommunications facility is not removed within 30 days of receipt of such notice, the city may remove such facility and place a lien upon the property for the costs of removal. Delay by the city in taking action shall not in any way waive the city's right to take action. The city may pursue all legal remedies available to it to insure that telecommunications facilities not in compliance with the code standards or which constitute a danger to persons or property are brought into compliance or removed. The city may seek to have the telecommunications facility removed regardless of the owner's or operator's intent to operate the tower or antenna and regardless of any permits, federal, state or otherwise, which may have been granted.

Abandoned towers.

- (a) Any telecommunications facility that is not operated for a continuous period of 12 months shall be considered abandoned, whether or not the owner or operator intends to make use of it or any part of it. The owner of a telecommunications facility and the owner of the property where the facility is located shall be under a duty to remove the abandoned telecommunications facility. If such antenna and/or tower is not removed within 60 days of receipt of notice from the city notifying the owner(s) of such abandonment, the city may remove such tower and/or antenna and place a lien upon the property for the costs of removal. The city may pursue all legal remedies available to it to insure that abandoned telecommunications facilities are removed. Delay by the city in taking action shall not in any way waive the city's right to take action. The city may seek to have the telecommunications facility removed regardless of the owner's or operator's intent to operate the tower or antenna and regardless of any permits, federal, state or otherwise, which may have been granted.
- (b) If the owner of an abandoned tower or antenna wishes to use such abandoned tower or antenna, the owner first must apply for and receive all applicable permits and meet all of the conditions of this article as if such tower or antenna were a new tower or antenna.

Pre-existing towers/nonconforming uses.

- (a) All telecommunications facilities operative on November 13, 2000, shall be allowed to continue their present usage as a nonconforming use and shall be treated as a nonconforming use in accordance with **section 94-61** of the Municipal Code. Routine maintenance, including replacement of a new tower or antenna of like construction and height, shall be permitted on such existing telecommunications facilities. New construction other than routine maintenance shall comply with the requirements of this article.
- (b) A telecommunications facility that has received city approval as of November 13, 2000, in the form of either a building permit or special use exception, but has not yet been constructed or placed in operation shall be considered an existing telecommunications facility so long as such approval is current and not expired.
- (c) Placement of an antenna on a nonconforming structure shall not be considered an expansion of the nonconforming structure.

Penalty for violation of article.

- (a) Any person who attempts to erect or erects a telecommunications facility covered by this article without having first obtained the necessary building permit, special use permit or variance in the manner provided in this article shall be

deemed in violation of this article. Any responsible party or other persons convicted by a court of competent jurisdiction of violating any provision of this article shall be guilty of violating a duly adopted ordinance of the city and shall be punished either by a fine not to exceed \$1,000.00 or by imprisonment not to exceed 12 months or both. The court shall have the power and authority to place any person guilty of violation of this article on probation and to suspend or modify any fine or sentence. As a condition of such suspension, the court may require payment of restitution or impose other punishment allowed by law.

(b) If any structure is erected, constructed, reconstructed, altered, repaired, converted or maintained in violation of this article or without obtaining that required permits, or if any building, structure or land is used in violation of this article, the city attorney, in addition to any other remedies, may institute proceedings in municipal court to prevent or enjoin such unlawful erection, construction, reconstruction, alteration, conversion, maintenance or use or to correct or abate such violations. Each and every day such unlawful erection, construction, reconstruction, alteration, conversion, maintenance or use continues may be deemed a separate offense, for purposes of assessing fines and/or other penalties, under **section 1-13 of this Code.**

Coordination with federal law.

Whenever the commission finds that the application of this article would unreasonably discriminate among providers of functionally equivalent personal wireless services or prohibit or have the effect of prohibiting the provision of personal wireless services, a conditional use permit waiving any or all of the provisions of this article may be granted by the building inspector.

Standards for decisions.

In reviewing applications for permits or variances submitted under this article, or appeals from decisions of the building inspector, planning commission, or city commission, city officials shall consider, but not limit themselves to, the following standards and factors:

- (a) Aesthetic appeal of the proposed telecommunications facility;
- (b) Diminution in value of any adjoining property due to the placement of the proposed facility;
- (c) Petitions and/or public opposition submitted by adjoining property owners;
- (d) Possible risk of danger, injury, or damage to person or property due to structural failure of a facility;
- (e) Existence of other alternate sites for location and whether the applicant considered them prior to choosing a proposed site;
- (f) Any hardship on the applicant which may be created by the denial of a permit requiring the owner to locate in a different place;
- (g) Proximity of one facility to structures on adjacent properties;
- (h) Any other factors or requirements under this article.